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b. An indictment cannot be attacked on the ground that insufficient evidence was presented to the grand jury; nor is there a mechanism for summary judgment in federal criminal practice.

Almost 25 years ago the Supreme Court in Costello v. United States, 350 U.S. 359, 363 (1956), had occasion to deal with certain fundamental questions relating to the significance of an indictment and the consequences attaching to a conclusion it was legally sufficient. Addressing itself to these issues, the Court stated that

> "If indictments were to be held open to challenge on the ground that there was inadequate or incompetent evidence before the grand jury, the resulting delay would be great indeed. The result of such a rule would be that before trial on the merits a defendant could always insist on a kind of preliminary trial to determine the competency and adequacy of the evidence before the grand jury. This is not required by the Fifth Amendment. An indictment returned by a legally constituted and unbiased grand jury, like an information drawn by the prosecutor, if valid on its face, is enough to call for trial of the charge on the merits. The Fifth Amendment requires nothing more."

Costello urged that the Court, under its supervisory powers in federal cases, "establish a rule permitting defendants to challenge indictments on the ground that they are not supported by adequate or competent evidence." The Court refused to do so. 350 U.S. at 363-64.

The cases are legion applying the fundamental rule set forth in Costello. United States v. Fried, 576 F.2d 787, 792 (9th Cir.), cert. denied, 439 U.S. 895 (1978); United States v. Cady, 567 F.2d 771, 776 (8th Cir. 1977), cert. denied, 435 U.S. 994 (1978); Rodriquez v. Ritchey, 556 F.2d 1185, 1191 n.22 (5th Cir. 1977), cert. denied, 434 U.S. 1047 (1978); United States v. Radetsky, 535 F.2d 556, 565 (10th Cir.), cert. denied, 429 U.S. 820 (1976); United States v. DiFronzo,

345 F.2d 383, 385 (7th Cir. 1965), cert. denied, 382 U.S. 829 (1977); United States v. Fine, 413 F. Supp. 728, 733 (W.D. Wis. 1976) ("I have determined that count two of the indictment is sufficient on its face. . . . Under these circumstances, there is 'enough to call for trial of the charge on the merits.'" (Doyle, J., citing Costello.)

There is no provision in the Federal Rules of Criminal Procedure permitting a summary judgment procedure as the Federal Rules of Civil Procedure do. Nor has Raineri cited any authority contrary to the basic propositions here set forth. Therefore, once it is determined that a charge is sufficient as a matter of law, any claim that it is factually deficient must await "trial of the charge on the merits."

2. Counts I, II and III sufficiently allege that an unlawful business enterprise was involved and the crimes charged are within the scope of the underlying statute. (Defendant's Motion to Dismiss - 1 and Defendant's Amended Motion to Dismiss - 1)

Raineri claims that the indictment does not relate to the promotion of a business enterprise within the meaning of section 1952, and that "the attempted application of section 1952 to the alleged fact situation in this action is beyond the scope intended for section 1952." He requests an evidentiary hearing to call witnesses to demonstrate that the unlawful activities occurring at the Show Bar, if any, were not of a continuing nature and thus did not constitute a business enterprise. The motion to dismiss and the request for a hearing are groundless and should be denied.

a. The indictment need not allege that a "continuing" business enterprise is involved.

Raineri's claim that a continuing business enterprise must be alleged in the indictment ignores the wording of the statute and the manner in which the indictment is drafted under it. Section 1952 makes it a crime if someone "travels in interstate . . . commerce . . . with intent to . . . . otherwise promote . . . or facilitate the . . . carrying on, of any unlawful activity," and thereafter performs any of those acts. Unlawful activity is defined in Section 1952(b) to mean "any business enterprise involving . . . prostitution offenses in violation of the laws of the State in which they are committed." Counts I, II and III in this case allege that the defendant "with intent to promote and facilitate the carrying on of a business enterprise involving prostitution . . . an unlawful activity", did utilize an interstate facility and thereafter perform the prohibited acts. It is clear, therefore, that the indictment tracks the statutory language

and alerts the defendant to the nature of the charge. For the reasons discussed in section 1(a) of this part, the charge is sufficient.

Raineri's request for an evidentiary hearing is equally without foundation. Essentially, he appears to claim that at a hearing his proof will show that any unlawful activity which may have occurred at the Show Bar was not of a sufficiently continuing nature so as to constitute an unlawful activity within the meaning of section 1952. See paragraph 5 of the affidavit in support of the motion. Proof along those lines, however, must await trial and is not the proper subject of a pretrial hearing. See the authorities discussed in section 1(b) of this part.

b. The crimes charged are within the scope of the underlying statute.

Raineri next contends that section 1952 was not designed to cover the fact situation referred to in the indictment. Since counts I, II and III track the statutory language and indicate Raineri's involvement with the offense, it is unlikely that any such claim can successfully be made. Nevertheless, Raineri urges, relying principally upon some of the legislative background to the section and a lengthy quote from United States v. Isaacs, 493 F.2d 1124 (7th Cir.), cert. denied, 417 U.S. 976 (1974), that the indictment constitutes overreaching. This claim is without merit.

It certainly is not required in order for section 1952 to apply that organized crime be involved. Erlenbaugh v. United States, 409 U.S. 239, 246 (1972). See United States v. Roselli, 432 F.2d 879, 884-85 (9th Cir. 1970), cert. denied, 401 U.S. 924 (1971). Furthermore, section 1952 has been applied to cases involving prostitution both in this Circuit, this District and elsewhere,

where there was no more allegation of organized criminal activity than here. United States v. Herrera, 584 F.2d 1137 (2nd Cir. 1978); United States v. Eisner, 533 F.2d 987 (6th Cir.), cert. denied, 429 U.S. 919 (1976); United States v. Prince, 529 F.2d 1108 (6th Cir.), cert. denied, 429 U.S. 838 (1976); United States v. Zemeter, 501 F.2d 540 (7th Cir. 1974); United States v. Rizzo, 418 F.2d 71 (7th Cir. 1969), cert. denied, 397 U.S. 967 (1970); United States v. Vitich, 357 F. Supp. 105 (W.D. Wis. 1973).

Raineri also requests a hearing on the ground that the "activities attributed to him in the Indictment, even if true, represent sporadic casual involvement in a proscribed activity rather than any continuous course of criminal conduct." (Defendant's memorandum, p. 17) The amended motion makes such a request "after the Government has complied with the Defendant's Motion for a Bill of Particulars." Even assuming that somehow an application for particulars automatically constitutes a directive to particularize, a hearing is still not in order. If the activities attributed to Raineri in the first three counts are proven true, he has committed three crimes; if not, he is not guilty. For the reasons discussed in section 1(b) of this part, this fact question should be determined at a trial, not at a pretrial hearing.

Accordingly, Raineri's motion to dismiss or for a hearing should be denied.

3. Count I Is Not Duplicitous and an Election Is Not Required. (Defendant's Motion to Dismiss -2)

Raineri urges that count I be dismissed on the ground it alleges both that he caused interstate travel and that he caused the use of a facility in interstate commerce. Alternatively, he asks that the government be required to elect which of these two jurisdictional elements it will prove at trial. Neither motion has merit.

Section 1952 of Title 18, United States Code, prohibits travel in interstate commerce or the use of a facility in interstate commerce with intent to do various things and thereafter performing various acts. In short, the statute, as is the case with many federal statutes, is drafted in the disjunctive. Count I, drawn under this statute, is drawn in the conjunctive. This drafting is a standard and acceptable procedure which does not warrant either dismissal or election.

Basically, the jurisdictional methods alleged are but different means by which the same crime can be committed. United States v. Anderson 368 F. Supp. 1253, 1260 (D. Md. 1973) (the different jurisdictional elements in section 1952 "merely indicates alternative means for the commission of the crime.") Thus, an indictment which alleges both means is neither duplicitous nor insufficient. The Seventh Circuit dealt with this question in United States v. Amick, 439 F.2nd 351, 358-59 (7th Cir.), cert. denied, 404 U.S. 823 (1971), and found that charging in the conjunctive was perfectly legitimate, specifically holding that "[a]n indictment drawn in the manner" under attack was not duplicitous. A similar result was followed in a case brought under section 1951 in United

States v. Addonizio, 313 F.Supp. 486, 499 (D.N.J. 1970). See also United States v. Jones, 491 F.2d 1382, 1384 (9th Cir. 1974); United States v. Miller, 491 F.2d 638, 648 (5th Cir.), cert. denied, 419 U.S. 970 (1974); Gerberding v. United States, 471 F.2d 55, 59 (8th Cir. 1973); United States v. Bloom, 78 F.R.D. 591, 603-04 (E.D. Pa. 1977); and United States v. Hobbs, 392 F.Supp. 444, 445 (D. Mass. 1975).

It is clear, therefore, that the practice utilized in count I of charging the jurisdictional element in the conjunctive is permissible and does not render the indictment vulnerable to a motion to dismiss. Nor is an election required. Commenting on the elements alleged in the conjunctive in Amick, the Seventh Circuit stated "it suffices to prove any one or more of the charges." United States v. Amick, supra at 359. (emphasis added) The reason for this rule can be found in an earlier Supreme Court case, Crain v. United States, 162 U.S. 625, 634-36 (1890), relied on in Turner v. United States, 396 U.S. 398 (1970), as well as Amick. In Turner, 396 U.S. at 420, the Court stated: "The general rule is that when a jury returns a guilty verdict on an indictment charging several acts in the conjunctive, as Turner's indictment did, the verdict stands if the evidence is sufficient with respect to any one of the acts charged." Since the case may go to the jury in the conjunctive posture framed by the charge, the government cannot be required to elect. For these reasons, the motion to elect should be denied as well.

4. Counts I, II, and III Allege a Crime (Defendant's Motion to Dismiss - 10)

Raineri moves to dismiss counts I, II, and III on the ground "that the Indictment and the information presented to the Grand Jury did not indicate that the Defendant used an interstate facility with the requisite intent required for a charge under section 1952." He also requests a hearing "so that he may present witnesses and evidence to demonstrate that the use of an interstate facility by the Defendant, if it in fact occurred, occurred without the requisite intent to promote a business enterprise required by section 1952." The motion is deficient on its face.

Each of the first three counts alleges that Raineri caused an interstate facility to be used "with intent to promote and facilitate . . . a business enterprise involving prostitution." The "essence" of defendant's argument, "that the alleged use of those interstate facilities is not shown in the Indictment in any fashion to have been done with intent to promote prostitution" (Defendant's memorandum, p. 48), might as well be directed to another indictment since counts I, II, and III allege precisely that. The indictment is clearly sufficient. See section 1(a) of this part.

For the reasons advanced in section 1(b) of this part, the request for a hearing should also be denied.

5. Counts I, II and III Are Not Deficient for Failure to Name Anyone Other than Raineri. (Defendant's Motion to Dismiss - 5)

Raineri moves to dismiss counts I, II, and III of the indictment on the ground that he is charged under section 2 of Title 18, while no individual has been charged as a principal in connection with those counts. This motion is without merit.

It is clear that under these counts Raineri is advised of more than is required, since a failure of the charge to refer to section 2 would not preclude Raineri's conviction under section 2. This basic concept in federal criminal pleading and practice has been uniformly recognized and was set forth by the Seventh Circuit in Levine v. United States, 430 F.2d 641 (7th Cir. 1970), cert. denied, 401 U.S. 949 (1971). In rejecting the claim that conviction under section 2 was improper where the defendant was charged only as a principal, the court observed that on this question Levine "is met with the decisions of numerous courts, including this one, which have held contrary to his contention and not one, so far as we are aware, has held in his favor," 430 F.2d at 643. Raineri is no more able to produce contrary authority than Levine was. Prior Seventh Circuit decisions and those from the Fourth, Ninth and Tenth Circuits were cited. Accord, United States v. Hope, 53 F.R.D. 385, 387 (E.D. Wis. 1971) ("A person may be convicted as an aider or abettor even though the indictment does not specifically charge him in that capacity.") Indeed, an indictment which alleges in the alternative that a defendant aided and abetted a violation or actually committed the violation would be equally invulnerable to a motion to

dismiss, Foster v. United States, 339 F.2d 188, 190 (10th Cir. 1964).

Raineri complains, however, that the charge does not inform him of enough facts to be able to prepare an adequate defense and that this ommission, "coupled with the extremely incidental and tangential nature of the defendant's alleged involvement requires dismissal of the counts." (Defendant's memorandum, page 26) These arguments do not enhance an otherwise defective claim. The charges, which track the language of the statute, are sufficient (see section 1(a) of this part). Raineri's claim of an inability to prepare for trial can hardly withstand analysis in light of the extensive discovery already furnished him. As to the "extremely incidental and tangential nature of the defendant's alleged involvement," this allegation is obviously a question of fact. The indictment does not allege incidental and tangential involvement, and the government maintains the proof will not show incidental and tangential involvement. But that question must await trial. In the interim, the motion to dismiss should be denied.

6. The Allegation of the Jurisdictional Element is Sufficient in Counts I, II and III. (Defendant's Motion to Dismiss - 7)

Raineri urges that counts I, II and III should be dismissed because the use of the interstate facility alleged is purely incidental and, under the cited cases, there is not alleged a sufficient basis for federal jurisidiction. He requests an evidentiary hearing to prove his contention. Raineri cites no precedent whatever to support his conclusion that an otherwise valid indictment can be dismissed on these grounds. In fact, each case he relies on involved a determination after trial when there was a complete record available to determine the nexus between the jurisdictional element and the unlawful activity. (United States v. Vitich, 357 F. Supp. 102 (W.D. Wis. 1973), is technically an exception to this statement but as will be shown, functionally is a sufficiency of the evidence case.) Furthermore, Seventh Circuit cases more recent than those Raineri relies on take a broader approach to the jurisdictional question. His motion to dismiss or for a hearing should therefore be denied.

Raineri relies on four cases: United States v. Altobella, 442 F.2d 310 (7th Cir. 1971), United States v. McCormick, 442 F.2d 316 (7th Cir. 1971), United States v. Isaacs, 493 F.2d 1124 (7th Cir. 1973), cert. denied, 417 U.S. 976 (1974); and United States v. Vitich, 357 F. Supp. 102 (W.D. Wis. 1973). In each of the Court of Appeals cases, section 1952 counts were dismissed for insufficient connection between the jurisdictional element and the state crime. It is important to note, however, that this determination that the nexus was insufficient was based on the entire record of the case. Therefore, these cases do not stand for the proposition that a sufficient indictment can be dismissed on the basis of conjecture or hypothesis that the interstate tie is too remote.

In Altobella, in ordering dismissal, the court stated "there was nothing about the appellants' enterprise, as disclosed by the evidence, which suggests any reason why state police powers need to be supplemented by the federal government." The court commented on the appellants' purposes and noted the use of the interstate facility was minimal and incidental. United States v. Altobella, supra at 315 (emphasis added).

In McCormick, the court specifically relied on the evidence and observed that "[t]he testimony [did] not show that the defendant sought to obtain any salesmen from outside Indiana by advertising in the Indianapolis Recorder, nor was there any showing that he employed out-of-state salesmen through the use of these advertisements or otherwise. Rather, the testimony shows that he sought to escape any transgression of federal law by avoiding any interstate aspects in his gambling operation." United States v. McCormick, supra at 317.

In Isaacs, incorporated by reference into Raineri's memorandum, the Seventh Circuit also dismissed a number of charges under section 1952 but again after reviewing the record in detail. Thus, it contrasted the record in Isaacs with the detailed showing made at trial in United States v. Salisbury, 430 F.2d 1045 (4th Cir. 1970). United States v. Isaacs, supra at 1148-49. Specifically the Court in Isaacs noted that "the test for application of section 1952 is the nature and degree of interstate activity in furtherance of a state crime." United States v. Isaacs, supra at 1148. No such test can be applied by viewing the face of an indictment.

United States v. Vitich involved a pretrial determination on the jurisdictional

element. However, as a functional matter, the court's decision was not a pretrial motion to dismiss, but rather a review of the sufficiency of the evidence. The defendants had moved to dismiss the indictment on the ground that it failed to state an offense. The parties "stipulated that the court may consider the motion to dismiss as if it were a motion for judgment of acquittal filed during the trial at the close of the government's case. The parties stipulated further that for the purposes of deciding the motion, the court may assume that the government has proved the following facts. . . ." United States v. Vitich, supra at 103. The court's denial of the motion was then based on the record, not the allegation.

It follows from this analysis that the cases relied on by Raineri do not support his motion since there is no way a determination can be made as to "the nature and degree of interstate activity in furtherance of a state crime" from the face of the indictment. United States v. Isaacs, supra at 1148. Each of the cases Raineri relies on establishes the proposition fatal to his pretrial motion: namely, a determination of the adequacy of the allegation of federal jurisdiction must await a trial on the merits.

Raineri places heavy reliance on the test set forth by Judge Doyle in United States v. Vitich, supra, for determining whether the interstate activities of an unlawful operation bring it within section 1952. In that case, the court stated two factors bear on the question: the significance of the role of the interstate activity in the unlawful operation and whether the use of the interstate facilities was a matter of happenstance or conscious decision on the part of the

defendant. The court went on to note that the defendants intentionally engaged services of an out-of-state business in that case, unlike other cases where the interstate activity relied on by the government was the acts of others. United States v. Vitich, supra at 105. Significantly, after all this discussion, Judge Doyle upheld the charge in Vitich, a charge identical to count III which Raineri now seeks to dismiss in part under the authority of Vitich.* It is impossible for Raineri to distinguish the indictments except to note that Vitich involved, functionally, a sufficiency motion, which is precisely the government's point.

It is obvious that none of these factual matters can be determined from a reading of the indictment. The significance of the role of a payment to a prostitute (count I), the importance of a payment for and the use of electrical power for the running of the Show Bar (count II), and the use of linen (count III) are all questions which can only be determined from a complete record of

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*For the convenience of the court, count III of the indictment in this case is set out next to a copy of the charge upheld in Vitich in an attachment at the end of this section (page 35A). Raineri's heavy reliance on Vitich is also somewhat surprising since Judge Doyle rejected an argument in Vitich which Raineri now advances. To support his claim that the use of interstate facilities was merely happenstance, Raineri points out that if the operation alleged to have occurred in Hurley had occured in Madison, there would not have been an Ironwood Bank or a Minnesota linen service. (Defendant's memorandum, p.32) A similar argument was made in Vitich where the defendants argued that the interstate link was not essential since they could have laundered their own sheets. In rejecting this argument, Judge Doyle relied on an earlier Seventh Circuit case which rejected a similar claim--United States v. Miller, 379 F.2d 483 (7th Cir.), cert. denied, 389 U.S. 930 (1967)--and observed that "the availability of methods for operating the prostitution business without the use of interstate facilities does not exempt defendants from the coverage of" section 1952. 357 F. Supp. at 105.

the case. Whether these interstate facilities were used by happenstance or design is similarly a fact question, as is the link between Raineri himself and these facilities. Thus, the court or jury might find it helpful on this question that Raineri was actively involved in a bookkeeping component of the business as evidenced both by [redacted] testimony and the conclusions of the fingerprint and handwriting experts. (Tuerkheimer affidavit, paragraphs 14-17) The checks themselves indicate that they were drawn on a Michigan bank, a fact which would obviously weigh against the conclusion that Raineri's involvement in the jurisdictional element was merely happenstance and for the conclusion that the use of the interstate facility was by his design. Indeed, one of the conclusions by the handwriting expert was that Raineri's handwriting was found on the check stub for the check which forms the basis of count III. The government does not intend this reference to the facts to be produced at trial to be exhaustive on the jurisdictional question, but rather simply to show that a fair and complete determination must await a trial on the merits.

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Certainly the cases Raineri relies on--Isaacs, Altobella, McCormick and Vitich--do have a bearing on this case, but primarily in connection with appropriate instructions to the jury on the jurisdictional element. In this connection, it is important to note that the Seventh Circuit, since those cases were decided in the early 1970s, has taken a marked turn toward a broader construction of section 1952. This turn began in 1975 with United States v. Rauhoff, 525 F.2d 1170 (7th Cir. 1975) and United States v. Peskin, 527 F.2d 71 (7th Cir. 1975), cert. denied, 429 U.S. 818 (1977). In both cases, Altobella and McCormick were distinguished

and confined and the flexibility of the standard to be applied set forth in Isaacs was relied on. See United States v. Rauhoff, supra at 1173-75 and United States v. Peskin, supra at 77-78. This turn toward a broader application of section 1952 continued in United States v. Bursten, 560 F.2d 779 (7th Cir. 1977) where the applicability of section 1952 was again questioned. The defendants there, like Raineri here, relied on Isaacs, McCormick and Altobella; the government countered with Peskin and once again the earlier decisions were distinguished and a broader interpretation of section 1952 prevailed. Even more recently, the approach set forth in Peskin, Bursten and Rauhoff was followed by the Seventh Circuit in United States v. McPartlin, 595 F.2d 1321 (7th Cir. 1979). In that case, the defendant claimed the court erred in instructing the jury that under section 1952 "a defendant need not know or reasonably foresee that the facility of interstate commerce will be used or that someone will travel in interstate commerce in order to be guilty under [section 1952]. The court responded that "The authority in this circuit is that neither the language nor the purpose of [section 1952] compels this showing of knowledge on the part of each co-conspirator. . . . The use of interstate facilities merely provides the basis for federal jurisdiction." 595 F.2d at 1361. (emphasis added) The court concluded by observing that the fact that the appellant in that case "did not travel interstate or use interstate facilities or that he may not have known that others in the bribery scheme would do so is immaterial." 595 F.2d at 1361.* In short, the Seventh Circuit has come a long way since the earlier decisions under section

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*But see Judge Doyle's apparently contrary view in Vitich, 357 F. Supp. at 105. The only way to reconcile Judge Doyle's reliance on the defendant's causal role in the jurisdictional element as opposed to "others" with the later Seventh Circuit decision in McPartlin is to equate "others" with those outside the scheme as in Altobella. If read this way, the relied on language in Vitich is of no help to Raineri.

1952 relied on by Raineri.

For the reasons discussed, the motion to dismiss counts I, II and III on the ground that use of interstate facilities or travel referred to in the counts was a matter of happenstance and not conscious design, must be denied. Raineri's request for an evidentiary hearing to present testimony and witnesses to demonstrate that the use of interstate facilities and or interstate travel, if any, in connection with the Ritz Bar, Inc. doing business as the Show Bar of Hurley, Wisconsin, "was incidental, happenstance, and not the product of conscious design" (Defendant's motion to dismiss - 7) must also be denied for the reasons advanced in section 1(b) of this part.

Finally, Raineri as a second portion of his Motion to Dismiss - 7 moves to dismiss because the indictment fails to specify what type of interstate travel was used and specifically that "the indictment did not specify what connection exists between the use of those interstate facilities and the defendant." This failure, he says, "violates due process of law and failing to provide the defendant with adequate information of the charges against him so that he may prepare his defense . . ." (Defendant's memorandum, p. 34) The indictment does allege the nexus between Raineri and the jurisdictional element; it states that he caused the use of the facility of interstate commerce with the required intent. In any event, for the reasons set forth in section 1(a) of this part, the indictment is sufficient on its face and need not allege greater detail on the jurisdictional element. See United States v. Cerone, 452 F.2d 274, 290 (7th Cir. 1971), cert.

denied, 450 U.S. 964 (1972), holding that a charge under section 1952 need not "recite the particulars of the use of the interstate facility charged." Raineri's review of the massive discovery material already furnished him will certainly provide him with the ability to prepare his defense. This part of the motion to dismiss should therefore also be denied.

COUNT III

On or about September 29, 1978, in the Western District of Wisconsin,

ALEX J. RAINERI,

the defendant, did cause to be used a facility in interstate commerce between Hibbing, Minnesota, and Hurley, Wisconsin, to wit: the delivery and pick-up facilities of the American Linen Supply Company, with intent to promote and facilitate the carrying on of a business enterprise involving prostitution in violation of Sections 944.30 and 944.34 of the Wisconsin Statutes, an unlawful activity, in connection with Ritz Bar, Inc., doing business as the Show Bar, Hurley, Wisconsin, and thereafter ALEX J. RAINERI, the defendant, did perform and cause to be performed acts to promote and facilitate the carrying on of said unlawful activity.

(In violation of Title 18, United States Code, Sections 1952 and 2)

THE GRAND JURY CHARGES:

That on or about the 22nd day of November, 1971, in the Western District of Wisconsin,

[redacted] b6 b7C

did use and caused to be used in interstate commerce between Duluth, in the State of Minnesota, and Hurley, in the State of Wisconsin, the delivery and pickup facilities of the American Linen Supply Co., with intent to promote, manage and carry on and facilitate the promotion, management and carrying on of an unlawful activity, said unlawful activity being a business enterprise involving prostitution in violation of Section 944.34 of the Wisconsin Statutes, and, therefore, [redacted] did perform and b6 b7C cause to be performed acts to promote, manage, carry on and facilitate the promotion, management and carrying on of said unlawful activity; in violation of 18 U.S.C. 1952.

B. Count IV, Alleging a Violation of Section 1623 of Title 18, United States Code, Is Sufficient

1. All Statements Alleged in the Indictment to be False Need Not Be False to Support the Indictment, Nor Need Each Be Proved to Support a Conviction. (Defendant's Motion to Dismiss - 11).

Raineri moves for an order dismissing count IV of the indictment on the ground that a plain reading of the indictment indicates that all statements alleged in it to be false could not have been false. Alternatively, he requests an order requiring the government to elect which alleged false statements it intends to proceed to trial on. The motion to dismiss is without merit. The motion to elect is consented to.

Count IV of the indictment extracts a portion of the defendant's grand jury testimony of March 18, 1980 and alleges it is false. Raineri correctly observes that not every allegation in the excerpted portion can possibly be false but then incorrectly urges that dismissal is required. A false declarations charge is not defective when it includes testimony surrounding false testimony, since such a pleading practice places the allegedly false statement in a context in which it can more readily be understood. In fact, the procedures used here are more desirable than a bare bones indictment which alleges only the false testimony. In Stassi v. United States, 401 F.2d 259 (5th Cir. 1968), vacated on other grounds, 394 U.S. 310 (1969), an indictment conceptually similar to the one here in issue was attacked on similar grounds. The Fifth Circuit, in rejecting this attack, stated that

> "It is not essential that all the testimony set forth in an indictment be false. As a matter of fact, it is better practice, both from the standpoint of the Government and the defendant, to set forth enough of the testimony immediately before and after the alleged false statements to give some coherent context to the alleged false statements."

401 F.2d at 262. See also United States v. Bonacorsa, 528 F.2d 1218, 1221 (2d Cir.), cert. denied, 426 U.S. 935 (1976). The motion to dismiss should therefore be denied.

The government consents to providing a specified statement as to which of the defendant's answers in the selected portion of the grand jury testimony it will prove at trial were false. It should be noted that only one of those specifications must be proved false to the satisfaction of the jury to justify a guilty verdict on the count. Vitello v. United States, 425 F.2d 416, 422 (9th Cir.), cert. denied, 400 U.S. 822 (1970); United States v. Edmondson, 410 F.2d 670, 673 n.6 (5th Cir.), cert. denied, 396 U.S. 966 (1969); Stassi v. United States, supra, at 262; United States v. Otto, 54 F.2d 277, 279-80 (2d Cir. 1931).

2. The Alleged False Declarations are Material (Defendant's Motion to Dismiss - 6)

Raineri moves to dismiss count IV on the ground that the allegedly false statements contained in the count were not material to the grand jury inquiry. The motion is based on an incorrect conception of what a motion to dismiss may challenge and an unduly cramped notion of what may be material to a grand jury inquiry. The motion is without merit.

Count IV of the indictment, paragraph (2) alleges that the grand jury was looking into prostitution activities centered around the Show Bar in Iron County. Paragraph (3) alleges it was material to the investigation to determine the connection between Raineri, a District Attorney in Iron County, and from January 1, 1978 on, a Circuit Judge, and [redacted] the person in overall charge of the Show Bar. The indictment then alleges it was material to determine whether these two people traveled together over a three-week period during the time Raineri was a Circuit Judge. Thus the indictment certainly contains a well-pled allegation of materiality. The Seventh Circuit has made clear that such an allegation of materiality is sufficient and therefore not vulnerable to a motion to dismiss. United States v. Rook, 424 F.2d 403, 405 (7th Cir.), cert. denied, 398 U.S. 966 (1970). See also United States v. Koonce, 485 F.2d 374, 381 (8th Cir. 1973) citing United States v. Kennefick, 144 F.Supp 596, 598 (N.D. Ill. 1956) ("The general allegation of materiality is sufficient. . ."); United States v. Ewert, 372 F. Supp. 734, 735 (E.D. Wis. 1974) and United States v. Caesar, 368 F. Supp. 328, 332 (E.D. Wis. 1973).

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Raineri, however, contends that despite this sufficient allegation of materiality, the question still is suitable for determination by pretrial motion. This idea in turn is predicated on the accepted fact that materiality or lack thereof is an issue of law. It does not follow, however, as Raineri states, that "as such it is suitable for determination by pretrial motion" (Defendant's memorandum, page 28). United States v. Damato, 554 F.2d 1371 (5th Cir. 1977) does not point to a pretrial determination of the question as Raineri suggests. In Damato, a conviction was reversed because evidence at trial was found to be insufficient on the materiality question. The only statement by the Fifth Circuit on the mechanics of resolving the materiality question was that evidence "bearing solely" on materiality should be heard by the judge in the absence of the jury. 554 F.2d at 1373: The trial judge listening to a certain type of evidence at trial in the absence of the jury is not by any means the equivalent of a pretrial determination of the sufficiency of an element of the charge. Whatever evidence the judge hears which "bears solely" on materiality must be considered in conjunction with other evidence of materiality that will be before the jury because the relevance of such other evidence is not "solely" with respect to materiality. The proper adjudication can therefore only be made at trial at the close of the government's case or the entire case.

Assuming, however, for the purpose of argument, that a well pled allegation of materiality may not always be sufficient, this case is certainly not the one where the required materiality is missing. Evidence at trial (Tuerkheimer affidavit, paragraphs 7-22) will show that [redacted] was in overall charge of the Show Bar, a place where prostitution occurred. The focus of the grand

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jury investigation as alleged in paragraph 3 of Count IV was into the connection between [redacted] and Raineri who at all material times was either District Attorney for Iron County or a Circuit Judge for Iron County, where the Show Bar was located. Raineri argues that a reading of his transcript reveals that he conceded an existing social relationship with [redacted] That, however is only the beginning of the inquiry and the nature of that social relationship was certainly a legitimate question for the jury to inquire about: hence the allegation in paragraph 3 that it was material to determine whether Raineri and [redacted] traveled together for three weeks on this distant trip. Certainly a trip together was not consistent with the purely social relationship Raineri testified to--in fact he denied joint travel. It strains the imagination to think that it was not material to an investigation into possible corruption and prostitution activities in Hurley to see how close a connection there was between the chief law enforcement officer and then Circuit Judge and a person in overall charge of a bar where prostitution activities occurred.

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It is not therefore, as Raineri puts it, the existence of a connection between Raineri and [redacted] which matters. Rather, the nature of that connection is what matters. In United States v. Moran, 194 F.2d 623 (2nd Cir.), cert. denied, 343 U.S. 965 (1952), an issue of materiality was raised with respect to testimony about the number of times a public official (Moran) and a convicted gambler (Weber) met. In affirming the conviction, the Second Circuit noted that "[t]he number of times they met could well have a bearing on the intimacy of their relations, and false statements by Moran as to the frequency of those meetings could thwart or impede the inquiry and prevent disclosure of other

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facts." 194 F.2d at 626. The holding and this language of Moran were cited and quoted with approval by the Seventh Circuit in United states v. Parker, 244 F.2d 943, 950-51 (7th Cir.), cert. denied, 355 U.S. 836 (1957), in a discussion of the appropriate test for materiality. Just as the number of meetings between Moran and Weber was material because of its bearing on their relationship, whether Raineri and [redacted] had the casual social relationship Raineri portrayed b6 b7C or the more intimate one implicit in a three-week trip to Nevada was equally material. In fact, Moran is directly on point since a resolution of the question whether Raineri and [redacted] traveled together or met by accident bears precisely b6 b7C on "the number of times they met."

In addition, proof at trial will show a connection between the trip to Reno and the proceeds of prostitution activities at the Show Bar. The government's proof will establish that Raineri and [redacted] traveled together and that Raineri b6 b7C paid for the trip. In addition, the government's proof will show that Raineri regularly skimmed prostitution proceeds from the Show Bar and that one of the benefits [redacted] received from the skimming was paid-for travel with Raineri. b6 b7C Thus, had Raineri answered truthfully about the trip, the next question or series of questions would have related to the financing of the trip. Had he answered truthfully about financing, the next series of questions would have focused at the very heart of the matter: Why was he paying for her travel, what was he getting in return.

Under the proof outlined above, there can be no doubt of the materiality of the false testimony. The Seventh Circuit has adopted a broad test for materiality:

> "false testimony before the grand jury is material if it 'has the natural effect or tendency to impede, influence or dissuade the grand jury from pursuing its investigation.' Merely potential interference with a line of inquiry is sufficient to establish materiality, regardless of whether the perjured testimony actually serves to impede the investigation."

United States v. Howard, 560 F.2d 281, 284 (7th Cir. 1977). United States v. Parker, supra. Furthermore, it is clear that under this test "it is material if it is relevant to any subsidiary issue then under consideration." United States v. Percell, 526 F.2d 189, 190 (9th Cir. 1975). The government's proof will show that Raineri's false testimony tended to impede and potentially diverted the grand jury from legitimate lines of inquiry. As a consequence, the false testimony was material and the motion to dismiss the count should be denied.

C. Count V, Alleging a Violation of Section 1503 of Title 18, United States Code, Is Sufficient. (Defendant's Motion to Dismiss - 4 and Defendant's Amended Motion to Dismiss - 4)

Raineri moves to dismiss count V of the indictment which alleges that Raineri by threat and threatening communication endeavored to obstruct justice. Raineri claims the indictment is defective because it does not allege either that he conspired with another to violate section 1503 or that he aided and abetted another in such a violation. The amended motion rests on the failure of the indictment to allege Raineri had any knowledge that the individual allegedly threatened was or would be a witness before the grand jury. The motion is predicated on the misreading of the statute and the indictment and is contrary to case law under section 1503.

The catch-all clause of section 1503 provides that "whoever . . . by threats or . . . threatening . . . communication . . . endeavors to influence, obstruct, or impede the due administration of justice" (emphasis added) is guilty of a crime. The indictment tracks this statutory language and alleges the defendant violated the statute "in that he arranged for Patricia Colassaco, a prospective witness in a then pending grand jury investigation in the Western District of Wisconsin, to be threatened in connection with her prospective testimony."

In attacking the legal sufficiency of this charge, Raineri first contends the indictment is defective because it does not allege that Raineri acted as either a co-conspirator or an aider and abettor. Raineri correctly states that the government does not contend that he directly threatened Patricia Colassaco

but that he arranged it. It does not follow from this, however, that liability is predicated either on the conspiracy statute or the aiding and abetting statute, since it is a crime under section 1503 to "endeavor" to obstruct the administration of justice. In short, the crime is complete when the endeavor is made, not when the witness is threatened. Therefore, it is the process of arranging for the threatening which constitutes the crime and the indictment so alleges.

This analysis is supported both by the wording of the statute which has been quoted and definitive case law under it. In Osborn v. United States, 385 U.S. 323 (1966), the defendant was charged under section 1503 with endeavoring to bribe a member of a jury panel in a prospective federal criminal trial. Unfortunately for the defendant, the means he chose to carry out this plan was a person who, unknown to him, had agreed to report to federal agents any illegal activities. That person did so and the defendant was charged with the obstruction of justice. In urging that the evidence to convict him was insufficient he pointed out the obvious: no juror was ever bribed nor could any juror have been bribed. The Supreme Court rejected this argument observing that the obstruction statute prohibited an "endeavor" and that the word endeavor was used to avoid the technicalities connected with the word attempt: endeavor was designed to describe "any effort or essay to accomplish the evil purpose that the section was enacted to prevent. . . . The section . . . is not directed at success in corrupting a juror but at the 'endeavor' to do so." 385 U.S. at 333. See also, United States v. Missler, 414 F.2d 1293, 1306 (4th Cir. 1969), cert. denied, 397 U.S. 913 (1970); ("There can be no question that a person 'endeavors' to obstruct justice when he arranges

to have a prospective government witness murdered." (emphasis added) Thus, under the statute prohibiting an endeavor to obstruct justice, arranging to have a prospective witness threatened constitutes the completed crime. Since count V so alleges, there is no need to allege either a conspiracy or section 2 violation.

Next Raineri contends count V is insufficient because it fails to allege that he had any knowledge that the person allegedly threatened was or would be a witness before the grand jury. No case law is cited to support the proposition that a section 1503 charge must make such an allegation. Indeed, in United States v. Hass, 583 F.2d 216, 219 (5th Cir. 1978), cert. denied, 440 U.S. 981 (1979), a case relied upon by Raineri, it is clear from a reading of the indictment that knowledge as such was not alleged. In fact, under controlling case law under section 1503, the government need not allege that a defendant must know that the person threatened was or will be a grand jury witness to violate the part of section 1503 relied on here.

In Falk v. United States, 370 F.2d 472, 475-76 (9th Cir. 1966), cert. denied, 387 U.S. 926 (1967), the defendant was charged under the catch-all clause of section 1503 with obstruction of justice by corruptly endeavoring to intimidate two persons who were prospective trial witnesses in connection with their testimony. There was no specific allegation the defendant knew the persons were witnesses. Therefore the charge in Falk, found at 370 F.2d at 475, is indistinguishable from the charge in count V. The Ninth Circuit held the charge sufficient, noting that under the catch-all clause of section 1503 "any corrupt endeavor to influence any . . . witness . . . constitutes obstruction of justice."

370 F.2d at 476. The Seventh Circuit agrees. In United States v. De Stefano, 476 F.2d 324 (7th Cir. 1973), the defendants were charged with endeavoring to obstruct justice under the catch-all clause of section 1503 in that they endeavored to corruptly and by threat induce a prospective witness not to testify in a pending criminal trial. The indictment contained no allegation the defendant knew that the person he threatened was a potential witness in a pending criminal proceeding (476 F.2d at 327-28). It was therefore also indistinguishable from the indictment in this case. The court upheld the sufficiency of the indictment, specifically holding "an indictment worded merely in the language of that statute [section 1503] is sufficient . . . even though the indictment contains no express allegations that the defendant knew that the person being threatened was a potential witness in a potential criminal proceedings." 476 F.2d at 328.

De Stefano and Falk reflect an approach to the catch-all clause of section 1503 articulated in United States v. Solow, 138 F. Supp. 812, 814 (S.D.N.Y. 1956), that section 1503 "is all embracing and designed to meet any corrupt conduct in an endeavor to obstruct or interfere with the due administration of justice." The facts involved in count V (Tuerkheimer affidavit, paragraphs 10-13) certainly bear out the wisdom of this approach. Raineri had every reason to believe, after his grand jury appearance on March 18, 1980, that Patricia Colassaco had been giving information against him in connection with the ongoing grand jury investigation. Whether he thought such evidence was transmitted to the grand jury, through the FBI or directly by her as a witness should hardly be dispositive of whether he endeavored to obstruct justice for, according to the government's proof, he certainly made the endeavor on the following day. As

it turns out she had spoken previously to the FBI and testified before the grand jury afterwards, but the crime was complete when the endeavor occurred. Osborn v. United States, 385 U.S. 323 (1966). At that time Colassaco was a prospective witness and Raineri's endeavor to threaten her was, in the words of the charge, "in connection with her prospective testimony." Such wording certainly serves to link Raineri's efforts to a prohibited impediment of the grand jury investigation and charge him with the prerequisite scienter. The motion to dismiss should therefore be denied.

IV. TRIAL ORIENTED MOTIONS

A. Raineri's Motion to Sever Should Be Denied

Raineri moves for severance. The severance motion is subdivided into two parts: first, a motion directed to the first three counts asking they be severed and a separate trial be granted in regard to each; and second, a motion requesting severance of count IV and count V from the trial of counts I, II and III. Before each of these motions is discussed, a brief summary of the indictment is in order. Counts I, II and III allege the defendant caused the use of an interstate facility with intent to promote and facilitate the carrying on of prostitution activities at the Show Bar in Hurley, Wisconsin, and thereafter performed certain acts to promote and facilitate the carrying on of the prostitution. The three counts, which span a five-week period from August 23 to September 29, differ only in the allegation pertaining to the jurisdictional element. Count IV alleges that on March 18, 1980, the defendant testified falsely in denying that he traveled to Reno, Nevada, and back with [redacted] the person in overall charge of the Show Bar. Count V alleges that on March 19, 1980, the defendant endeavored to obstruct justice by arranging for a prospective Grand Jury witness to be threatened.

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A review of these counts reveals they are properly joined under Rule 8(a) and that no basis is presented or exists to warrant severance of any counts under Rule 14.

1. Joinder of Counts I, II and III Is Not Prejudicial

Raineri seeks three separate trials on the first three counts. He concedes

the counts are properly joined but claims a joint trial will prejudice him. This claim is meritless. None of the cases he cites supports severance of such a small number of similar counts. Other cases, not cited by him, have upheld joinder of a far greater number of counts in instances where the risk of prejudice was far greater.

The heart of the matter is quite simple: the only difference on the proof for each of the three counts relates to the jurisdictional element. Such proof is relatively minor in terms of the time it takes to present and is void of incriminatory impact. Thus there is no prejudice.

Defendant, however, relies on United States v. Brashier, 548 F.2d 1315 (9th Cir. 1976), cert. denied, 439 U.S. 840 (1978); United States v. Liss, 137 F.2d 995 (2d Cir. 1933), cert denied, 320 U.S. 773 (1943); United States v. Pagan, 393 F.Supp. 1395 (D. P.R. 1975); and Drew v. United States, 331 F.2d 85 (D.C. Cir. 1964). None of these cases supports severance. In Brashier, a tax charge based on the failure to report the gain from a securities fraud which formed the basis of another charge was held properly tried with the underlying securities fraud charge. The court pointed out that joint trials are the rule rather than the exception. Raineri's reliance on Liss is concededly on the dissent in that case. In Pagan, the court denied a severance because the offenses were closely related. Only in Drew was severance required. However, that case involved a failure to sever separate robbery and attempted robbery charges where it was obvious evidence of the other criminal endeavor would have been inadmissible at separate trials. Here, as has been noted, the only evidence technically admissible on only one count is proof of the jurisdictional element. This stands in sharp

contrast to the prejudicial impact of proof of a separate robbery or attempt.

Motions to sever far larger number of counts have been denied on the grounds that no prejudice occurred and that a jury could be expected to consider each of the counts. See United States v. Hansen, 422 F.Supp 430 (E.D. Wis. 1976), reversed on other grounds, 583 F.2d 325 (7th Cir. 1978), cert. denied, 439 U.S. 912 (1978), in which a motion to sever 20 counts was denied, and United States v. Stone, 444 F.Supp 1254 (E.D. Wis. 1978), affirmed without opinion, 588 F.2d 834 (7th Cir. 1978), in which denial of a motion to sever 32 counts was held properly denied. Indeed, in United States v. Papia, 409 F. Supp. 1307 (E.D. Wis. 1976), affirmed, 560 F.2d 827 (7th Cir. 1977), a far more powerful argument for severance was advanced and held properly rejected. In Papia, the defendant was indicted in two counts: a conspiracy count and a substantive count with a great deal of hearsay admissible on the conspiracy count that would not have been admissible on the substantive count. The defendant was acquitted on the conspiracy count, the vehicle for the admission of the hearsay. Despite this result a severance motion was denied and the denial was affirmed.

In short, defendant's position has no support in the case law. To the contrary, the case law is decidedly against his claim for severance. Raineri can show no real prejudice and his motion should be denied.

2. Joinder of Counts IV and V is Proper and Not Prejudicial

Raineri moves to sever counts IV and V from trial of counts I, II, and III on two grounds: first that these counts are improperly joined under Rule 8(a) of the Federal Rules of Criminal Procedure and second, that even if properly joined, severance is warranted under Rule 14 of the Federal Rules of Criminal

Procedure. For reasons which are conceptually related, each of these claims is without merit.

a. Joinder is proper under Rule 8(a)

Rule 8(a) provides that "[t]wo or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged . . . are of the same or similar character or based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan." "In determining whether those criteria apply, the court should be guided by the extent of evidentiary overlap." United States v. Zouras, 497 F.2d 1115, 1122 (7th Cir. 1974). Or, as the Seventh Circuit stated in United States v. Isaacs, 493 F.2d 1124 (7th Cir.), cert. denied, 417 U.S. 976 (1974), "communality of proof sufficed to establish that the offenses were 'connected together' for the purposes of Rule 8(a)." 493 F.2d at 1159. See also United States v. Gill, 490 F.2d 233, 238 (7th Cir.), cert. denied, 417 U.S. 968 (1973), and United States v. Sweig, 441 F.2d 114, 118-19 (2nd Cir.), cert. denied, 403 U.S. 932 (1971). This dispositive statement of joinder law by the Seventh Circuit (there is no contrary rule anywhere else) requires that one focus on the facts underlying the charges to see if there is the required communality of proof.

Counts I, II and III allege Raineri's involvement in prostitution activities at the Show Bar from a period, which the proof will show, continued for several years and ended in April, 1979. During this time, while Raineri was District Attorney and Circuit Judge, [redacted] was in overall charge of the Show Bar and the extent of Raineri's relation with her in the Show Bar affairs and management

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is obviously crucial to the government's case. Proof that Raineri testified before the grand jury and under oath lied to the grand jury about his relation with [redacted] by significantly minimizing it and in particular about a trip which he paid for is certainly admissible as a false exculpatory statement evidencing consciousness of guilt. This is especially true since [redacted] will testify that her understanding with him included the idea that he would keep prostitution proceeds and, among other things, pay for joint travel. (See part III(B)(2) dealing with materiality.) The cases are legion which support joinder of a perjury count with underlying charges on this ground, and Raineri has cited none to the contrary.

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The leading case in this Circuit is United States v. Isaacs, 493 F.2d 1124 (7th Cir.), cert. denied, 417 U.S. 976 (1974). In that case Otto Kerner, formerly Governor of Illinois and a Circuit Court Judge when the indictment was returned, was charged with conspiracy in connection with activities while he was Governor. He also was charged with making false declarations before a grand jury in June, 1971, seven years after the critical events of the conspiracy and three years after he had resigned as governor to become a Circuit Judge. These false declarations were not alleged to be in furtherance of the underlying conspiracy. In affirming the District Court's refusal to sever the false declarations charge, the Seventh Circuit noted that the false testimony related to the events which were the subject of the underlying conspiracy charge and, because of the communality of proof, joinder was proper under Rule 8(a). 493 F.2d at 1159.

In United States v. Sweig, 441 F.2d 114 (2d Cir.), cert. denied, 403 U.S.

937 (1971), Sweig was charged with conflict of interest and conspiring to defraud the United States by improperly using the influence of the office of the Speaker of the United States House of Representatives. These counts were joined with nine counts charging Sweig with perjury in his grand jury testimony. The trial judge held that joinder was justified not only by common elements of direct proof, but also on the ground that evidence of the prejurious statements could be admitted as false exculpatory statements to prove the underlying offense.

Perhaps the most explicit basis for the correctness of joinder was spelled out in United States v. Verra, 203 F. Supp. 87 (S.D.N.Y. 1962). In Verra, the defendant, Ponder, and another were charged with conspiring to obstruct justice. Ponder was also charged with two counts of perjury designed to conceal his complicity in the conspiracy, but not alleged to be part of the conspiracy. In denying a motion for severance of the perjury counts from the conspiracy count, Judge Weinfeld stated that even if severance were granted "[t]he government still would be entitled in its direct case [of the conspiracy charge] to offer, as evidence of consciousness of guilt, exculpatory statements by Ponder, claimed to be false, such as [those involved in the perjury charge] . . . ; these necessarily would embrace the very matters upon which the perjury counts are based." 203 F. Supp. at 91. Basically this analysis was followed by the Second Circuit in Sweig and by the Seventh Circuit in Isaacs, Gill and other cases.

The same analysis applies to the proof on count V. Proof on the first three counts will show that the defendant participated in the running of the Show Bar and, through the testimony of Patricia Colassaco, among others, that he was aware of the prostitution activities. Even if there were no

count V, the government would still be entitled to prove in connection with the first three counts that on March 18, 1980, the defendant was made aware of the strong possibility that Colassaco had stated that he knew about the prostitution and that a day later he attempted to have her silenced by threats. Such proof of obstructive conduct is admissible to show consciousness of guilt. See McCormick on Evidence (2d Edition) §272, p. 660 (in particular text at notes 54 through 59) ("[A] party's . . . undue pressure by intimidation or other means to influence a witness . . . to avoid testifying . . .--all these are instances of this type of admission by conduct.")

In a case very similar to this one, the Seventh Circuit upheld joinder precisely on these grounds. In United States v. Zouras, 497 F.2d 1115 (7th Cir. 1974), the defendant was charged in the first count with a Mann Act violation and in the second count with sending an extortionate letter to a potential witness against him in the Mann Act prosecution. In upholding joinder of the two counts, the court noted both acts constituted part of one scheme and the threatened witness "provides [a] significant evidentiary overlap between the counts." 497 F.2d at 1122. Indeed, the testimony of the witness who received the extortionate letter--DeWitt--plays a functionally similar roll to Colassaco. Her testimony described the interstate prostitution and her working for the defendant as a prostitute. Here Colassaco's testimony establishes corroboration of Gasbarri's testimony that Raineri knew there was prostitution at the Show Bar. On this basis, as the court noted in Zouras, "[t]he joinder was proper." 497 F.2d at 1122. See also United States v. Weiss, 491 F.2d 460, 467 (2d Cir.), cert. denied, 419 U.S. 833 (1974), where an obstruction charge

based on events occuring two years after the completion of the underlying scheme was held properly joined with 18 counts based on the underlying scheme.

Communality of proof works both ways. It does not follow as a matter of logic that because the evidence involved in counts IV and V is admissible on counts I, II, and III that the evidence admissible on the first three counts is also admissible on counts IV and V. In fact, however, it does follow, since Raineri's involvement in the running of the Show Bar provides the motive for the obstructive acts alleged in counts IV and V. "[N]othing can be more relevant in proving a crime than to show that the accused had a motive to commit it." United States v. Gottfried, 165 F.2d 360, 363 (2nd Cir.) (L. Hand, J.), cert. denied 333 U.S. 860 (1948); see also, United States v. Houlihan, 332 F.2d 8, 15 (2d Cir.), cert. denied, 379 U.S. 828, and sub nom. Legere v. United States, 379 U.S. 859 (1964).

This idea has been repeatedly applied both in this circuit and elsewhere. Indeed, it was explicitly noted in Zouras that DeWitt's work for the defendant as a prostitute and her involvement in the prostitution scheme was admissible on the extortion count "to show to what it was that DeWitt could testify which might have frightened the defendant into sending the extortionate letter." 497 F.2d at 1122. Similarly in United States v. Bradwell, 388 F.2d 619 (2nd Cir.) cert. denied, 393 U.S. 867 (1968), the Court of Appeals held that where the defendant was convicted of obstructing a grand jury investigation, his motive was properly established by evidence showing his connection with the promotion of prostitution that was the subject of the investigation. The court stated:

> [I]n order that the jury may assess the intensity of his motive, it should know the nature of the offense under investigation and the extent of the defendant's involvement; limiting the Government to a

> mysterious statement that the defendant was somehow connected with an investigation into some unidentified crime would unduly hamper its presentation. 388 F.2d at 621.

See also United States v. Braasch, 505 F.2d 139, 149 (7th Cir.), cert. denied, 421 U.S. 910 (1974), in which the Seventh Circuit stated that "[i]t is well established that proof of motive is one of the exceptions to the general rule that evidence of 'other crimes' not charged in the indictment is inadmissible in the prosecution's case in chief." And, to put it in a nutshell, if it is admissible, it is joinable. United States v. Isaacs, supra.

Raineri attempts to derive some support from the time gap separating counts I, II and III from counts IV and V which he claims is a year and a half. His claim is not altogether true since the government will show he performed acts at least as late as April, 1979, less than a year before the obstructive acts charged in counts IV and V. In any event, the case law indicates the use of time as a basis for urging the impropriety of joinder is not persuasive. In Isaacs, the perjury charge which was held properly joined to the underlying conspiracy charge occurred three years after those underlying events; in Weiss, the obstructive acts occurred two years after the underlying crime. The reason the cases treat the passage of time so disdainfully if urged as a reason for improper joinder rests in the logic of the joinder. Invariably the courts have held the term "transaction" as used in the applicable part of Rule 8(a) to be a "flexible" term which "may comprehend a series of many occurences, depending not so much upon the immediateness of their connection as upon their logical relationship."

Moore v. New York Cotton Exchange, 270 U.S. 593, 610 (1926) (emphasis added); United States v. Isaacs, supra, 493 F.2d at 1158, quoting the above cited excerpt from Moore in interpreting the word transaction as used in Rule 8(a). See also United States v. Friedman, 445 F.2d 1076, 1083 (2nd Cir.), cert. denied, 404 U.S. 958 (1971); Cataneo v. United States, 167 F.2d 820, 822-23 (4th Cir. 1948); United States v. Garrison, 265 F.Supp. 108, 110 (M.D. Ga. 1967). Raineri's effort at urging the less than a year time gap between the charges as a reason for improper joinder is therefore in vain.

It is clear that the critical evidence on counts IV and V is admissible at trial of counts I, II and III and vice versa. Severance would simply require that "the Government's efforts . . . be duplicated . . . without benefit to the movant." United States v. Verra, 203 F. Supp. 87, 91 (S.D. N.Y. 1962). Such duplication would be excessively burdensome not just to the government but to the court as well in light of the projected length of the trial. For that reason, supported both by logic and controlling case law, joinder is proper under Rule 8(a).

b. Joinder is not prejudicial; therefore severance is not warranted under Rule 14.

Raineri argues that even if joinder were proper under Rule 8(a), severance should still be granted pursuant to Rule 14 on the ground that the joinder is prejudicial. This claim is without merit.

It is important to note from the outset that prejudicial joinder under Rule 14 will rarely arise in an instance where joinder is proper under Rule 8(a) because of the communality of proof. The very logic of the joinder defeats a claim of prejudice. Cf. United States v. Verra, supra, at 91. Therefore, it is

not suprising that the cases Raineri cites where severance had been granted under Rule 14 involve instances where the joinder under Rule 8(a) was based on the fact that offenses were of a similar character. See, e.g., United States v. Foutz, 540 F.2d 733 (4th Cir. 1976) and Drew v. United States, 331 F.2d 85 (D.C. Cir. 1964). In neither of those cases was joinder predicated, as it is here, on communality of proof.* Rather, in both two totally and distinct separate bank robbery charges had been joined. Under those circumstances, precisely because proof was not overlapping, joinder was prejudicial and severance under Rule 14 was granted.

Indeed, a reading of Raineri's memorandum in support of his motion suggests the principal thrust of his severance motion is the part made under Rule 8(a). Citing United States v. Jamar, 561 F.2d 1103 (4th Cir. 1977) (where joinder of a perjury charge with underlying substantives was upheld) and Robinson v. United States, 459 F.2d 847 (D.C. Cir. 1972) (where joinder was also upheld), Raineri states: "if evidence of all joined crimes would be mutually admissible for legitimate purposes in separate trials for each offense (assuming no joinder), the possibilities of prejudice from the fact of joinder no longer present themselves so forcefully." (Defendant's memorandum p. 7).

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*It is, of course, true that not all items of evidence admissible on any given count are admissible on the others. For example, jurisdictional evidence with respect to counts I, II, and III would not be independently admissible on counts IV and V. However, not all items of evidence admissible on one count must be admissible on another to justify joinder. Baker v. United States, 401 F.2d 958, 975 (D.C. Cir. 1968), cert. denied, 400 U.S. 965 (1970). However, it is precisely the non-overlapping components of the proof which are non-incriminating and therefore prejudice is virtually nil. Certainly such extraneous and minor matters of proof have not served to bar joinder which was otherwise justified, United States v. Isaacs, supra.

Despite this apparent concession that his Rule 14 argument stands or falls with his Rule 8(a) argument, Raineri attempts to find prejudice in what is conceded arguendo to be proper joinder by virtue of a supposed inflammatory effect of the false declarations charge. Thus, he urges that its joinder with the other charges "could very easily lead the jurors to believe that since the Defendant had lied or had allegedly lied to one jury, the Grand Jury, he would be equally likely to lie to a second jury." (Defendant's memorandum, p.6). The principal difficulty with this argument, and a fatal difficulty, is that it has been expressly rejected by the Seventh Circuit. See United States v. Isaacs, supra, at 1159, 1167, 1169. Specifically, in speaking for a majority of an en banc panel in United States v. Pacente, 503 F.2d 543 (7th Cir.), cert. denied, 419 U.S. 1048 (1974), Judge Fairchild upheld the joinder of a perjury charge. Citing Opper v. United States, 348 U.S. 84, 95 (1954), to the effect that "our theory of trial relies upon the ability of a jury to follow instructions," he noted that the problems the argument now advanced by Raineri envisioned were "conceivable" but that "it is an unwarranted over-refinement to speculate that they present a significant danger that the trial jurors, acting together, will give weight to the conclusion reached by the grand jurors and fail to decide the issues of fact according to their own proper evaluation of the evidence." 503 F.2d at 547. See also United States v. Papia, 399 F. Supp. 1381, 1368 (E.D. Wis. 1975).

Raineri has not advanced any valid claim of prejudice and for that reason his motion to sever should be denied. Obviously, if at a later stage in the proceedings a valid claim of prejudice does arise, he is free to present it. See United States v. Pacente, supra at 546.

B. Raineri's Motion to Transfer the Trial Should Be Denied

Raineri moves to have the trial of this case held in Hurley, Wisconsin, or alternatively, in Superior. His motion for trial in either of these places is predicated on three grounds:

(1) That it would facilitate the interest of justice by permitting him to be tried by a jury of his peers selected from the location out of which the alleged offenses arise;

(2) That a transfer of trial would be an economical use of the court's time; and

(3) That trial at the transfer place would be a substantial convenience for the witnesses.

None of these grounds, singly or collectively, warrants the relief Raineri requests.

The first basis Raineri urges is that he is entitled to be tried by a jury of his peers selected from the geographical location out of which the alleged offenses arose. In terms of the law, Raineri's peers are defined by the United States Constitution and federal statutes to embrace the State of Wisconsin and the Western District of Wisconsin. The Sixth Amendment to the United States Constitution provides that "in all criminal prosecution, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed. . . ." (emphasis added). This concept is embodied in the federal statute pertaining to the selection of jurors (28 U.S.C. §1861) which explicitly states that "it is the policy of the

United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division where the court convenes." (emphasis added) Therefore, it is clear that in legal terms, trial of the defendant in Madison, Wisconsin, constitutes a trial by a jury of Raineri's peers selected from the legally relevant geographic area out of which the offenses rose. See Zicarelli v. Gray, 543 F.2d 466, 479 (3rd Cir. 1976) ("When a federal judicial district has been carved into divisions, the accused has no right to a trial held in a particular division, even one where the crime occurred, [citing cases] since the constitutional guarantee is written in terms of districts.") and United States v. James, 528 F.2d 999, 1021 (5th Cir.), cert. denied, 429 U.S. 959 (1976), ("The division of a federal judicial district is not a unit of venue in criminal cases.")

Next, the defendant asserts that trial in either Hurley or Superior would be an economical use of the court's time since the trial will continue for a number of weeks. How it is an economical use of the court's time to try the case in Hurley, Wisconsin, where there is no federal court facility and where the federal court has not sat in memory and possibly not at all, Raineri does not explain. Nor does he explain how a trial in Superior would be economical from the court's point of view. The federal courthouse in Superior is no longer functional. All removable and non-movable fixtures have been removed and there is no library (Tuerkheimer affidavit, paragraphs 24-27, Larsen affidavit).

In addition, legal research facilities in Superior and Hurley are completely

inadequate. Assuming that the court were to lease space from the state in Hurley as Raineri requests or in Superior, as it is assumed he will request, the Larsen affidavit makes clear that if any questions of law arise in the trial--and it is ludicrous to suggest they will not--research of those questions will entail major practical hurdles that will serve not only to hamper the research, but to delay the trial. The Larsen affidavit demonstrates that the most basic federal research tools are not available in either Hurley or Superior and, that to the extent they are available in Duluth, timing and logistical problems are considerable. Even assuming that somehow a complete set of federal materials could be gotten in Hurley or Superior, the situation would still be a far cry from that in Madison where each of the three entities involved in the trial, the court, the prosecution, and the defense, has access to a library, presumably containing the basic research tools for federal questions. In this context, it is a complete fiction to suggest, as Raineri does, that trial in Superior or Hurley "would be an economic use of the court's time." (Defendant's motion, paragraph 2)

Finally, Raineri urges that it will be a substantial convenience geographically and otherwise for the vast majority of the witnesses in this action. While it might prove more convenient for some of the witnesses if trial were in Hurley, there would still be burdens on them as explained below. Trial in Superior might only be slightly more convenient for what is accepted arguendo is the majority of the witnesses. The prosecution intends to call at least four witnesses from the Madison area and four to six witnesses from outside the state. (Tuerkheimer affidavit, paragraph 28) For these persons a Madison trial would be more convenient.

For those witnesses coming from Hurley the difference between a trial in Superior or in Madison is at most an additional two to three hours of driving. Certainly that difference is not a decisive factor.

Travel time alone, however, is not the only factor which bears on the convenience of witnesses. The extent to which a witness must wait at the place of trial also affects the witness' convenience. The likelihood of a burdensome wait is vastly greater in Hurley or Superior where researching issues of law would be much more difficult and more likely to intrude on actual trial time. (If the St. Louis County facilities in Duluth were to be relied on in a trial in Superior (see paragraph 4 of the Larsen affidavit), it would have to be between 8:00 A.M. and 4:30 P.M. This constraint would require lengthy adjournments during periods normally devoted to trial.) Therefore, all the factors which are conducive to the efficient conduct of the trial in Madison have a direct bearing on the convenience of the witnesses.

Significantly, Raineri cites only one case in support of his position and that case is distinguishable both in law and fact. In DuPoint v. United States, 388 F.2d 39 (5th Cir. 1967), the Fifth Circuit reversed a conviction because transfer had been granted within the district to accommodate the convenience of the government. It is obviously factually a far different situation than the motion before the court by the defendant seeking a transfer. In addition, DuPoint was based on a wording in Rule 18 which became effective July 1, 1966, which is different than the rule as it now stands. Rule 18 presently requires the court to fix the place of trial among other things "with due regard to . . . the prompt administration of justice." That wording did not appear in the rule

at the time DuPoint was decided, and the addition is significant especially in light of the many practical considerations which would delay not only completion of the trial if it were held in Superior or Hurley, but its commencement as well. *

For these reasons, the motion for transfer should be denied.

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*The Rule was amended to get around DuPoint and to bring it into harmony with the Speedy Trial Act. Notes of Advisory Committee on Rules. Since it will take at least six weeks notice to set in motion a jury trial in Hurley or Superior, (Tuerkheimer affidavit, pagraph 24) "the prompt administration of justice" (Rule 18) points to a trial in Madison.

C. Motion to Inspect Grand Jury Minutes

The government has agreed to furnish Raineri with a transcript of all witnesses appearing before the grand jury. On the basis of this agreement the motion is withdrawn.

D. Motion for Production of Handwriting Samples

Raineri has asked the government to produce handwriting samples of Patricia Colassacco, [redacted] and [redacted] The government has agreed to furnish all of these except for [redacted] The request with respect to [redacted] is withdrawn. b6 b7C

E. Motion for Discovery and Bill of Particulars

The parties have reached agreement on the items which are the subject of the defendant's motion for discovery and bill of particulars, as follows:

1. Discovery motion.

a. The government agrees to provide item 1.

b. The motion is withdrawn as to item 2.

c. The motion is withdrawn as to item 3. The government has represented that the vast majority of the statements in reports obtained by the F.B.I. have already been turned over to Raineri pursuant to the Discovery Order.

d. The government consents to item 4.

e. The motion is withdrawn as to item 5.

f. There are six paragraphs of item 6.

(i) The government consents to the first paragraph.

(ii) The government consents to the second paragraph to the words "statements made by the defendant." The motion is withdrawn as to the remainder of the paragraph.

(iii) The government consents to the third paragraph.

(iv) The government consents to the fourth paragraph and represents that there has been no electronic surveillance in connection with the investigation of the facts out of which this indictment arose.

(v) The government consents to the fifth paragraph and represents it does not know the names and addresses of jurors who were excused from the grand jury proceedings. It is free to take any position it wishes on a defense request for additional information made to the court.

(vi) The government agrees that on request it will write a letter to the Wisconsin Department of Justice requesting that any reports be turned over to the parties in this case. This representation is satisfactory to the defendant and the request in the sixth paragraph is withdrawn.

2. Bill of Particulars.

a. Item 1 -- Withdrawn.

b. Item 2 -- Withdrawn.

c. Item 3 -- Withdrawn.

d. Item 4 -- Withdrawn upon the representation contained in paragraph 29 of the affidavit of Frank M. Tuerkheimer.

e. Item 5 -- Withdrawn.

f. Item 6 -- Withdrawn.

g. Item 7 -- Withdrawn upon the representation contained in paragraph 29 of the affidavit of Frank M. Tuerkheimer.

h. Item 8 -- Withdrawn.

i. Item 9 -- Consented to up to the words "this Indictment was issued." The government does not know which grand jurors attended which session and is free to take any position it wishes on a defense request for the additional information made to the court.

j. Item 10 -- Inapplicable.

k. Item 11 -- Withdrawn.

l. Item 12 -- Consented to.

m. Item 13 -- Withdrawn. The government agrees to provide the defendant with the names of persons who testified before the grand jury and upon reasonable notice will undertake reasonable efforts to ensure the availability of such witnesses at the trial in this case.

n. Item 14 -- Left in abeyance.

o. Item 15 -- Withdrawn.

p. Item 16 -- Withdrawn.

V. CONCLUSION

Except as consented to, for the reasons advanced in this memorandum as supplemented by the affidavits of [redacted] and Frank M. Tuerkheimer, Raineri's motions including those for a hearing on various matters should be denied. b6 b7C

Respectfully submitted,

Frank M. Tuerkheimer
United States Attorney

[redacted] b6 b7C

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Evidence listed in judge's case

Madison — Fingerprints of Iron County Circuit Judge Alex Raineri were found on the stubs of two checks cashed by a Hurley prostitute, US Atty. Frank Tuerkheimer said in an affidavit on file in Federal Court for western Wisconsin. The affidavit contains evidence and testimony Tuerkheimer said he will present at Raineri's trial, scheduled to begin in late August. Raineri, 62, has pleaded not guilty to three counts of involvement with prostitution, one count of perjury and one count of trying to obstruct justice by threatening a witness.

(Indicate page, name of newspaper, city and state.)

B-16
MILWAUKEE SENTINEL
MILWAUKEE, WISCONSIN

Date: 7/24/80
Edition: FINAL

Title:

Character: 194-35
or ~~183~~
Classification:
Submitting Office: MILWAUKEE

194-35-362

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INDEXED
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JUL 25 1980

FBI—MILWAUKEE

FBI/DOJ

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b7C

1-HQ
1-MI

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Judge charged again

Madison, Wis. —UPI— Iron County Circuit Judge Alex Raineri was charged Friday by the State Judicial Commission with dismissing a Michigan policeman's traffic ticket in exchange for Michigan dropping a traffic charge against the judge.

Raineri is already under suspension by the State Supreme Court after a federal grand jury indicted him on three counts of promoting prostitution in Hurley, one count of lying to the jury and one count of trying to intimidate a witness.

The newest accusation says Raineri was involved in a traffic accident in 1978 in Michigan's Upper Peninsula. Detective Sgt. John Lenahan of the Michigan State Police got a speeding ticket in Wisconsin in 1979. The complaint said Raineri talked with the Gogebic County prosecuting attorney and later dismissed the citation against Lenahan in exchange for having the one against him dismissed.

(Indicate page, name of newspaper, city and state.)

A-2

MILWAUKEE JOURNAL
MILWAUKEE, WISCONSIN

Date: 8/2/80
Edition: LATEST

Title:

Character:
or
Classification:
Submitting Office:
MILWAUKEE

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INDEXED
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FBI - MILWAUKEE

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FM LAS VEGAS (194-38) (RUC)

TO MILWAUKEE (194-35) ROUTINE

BI

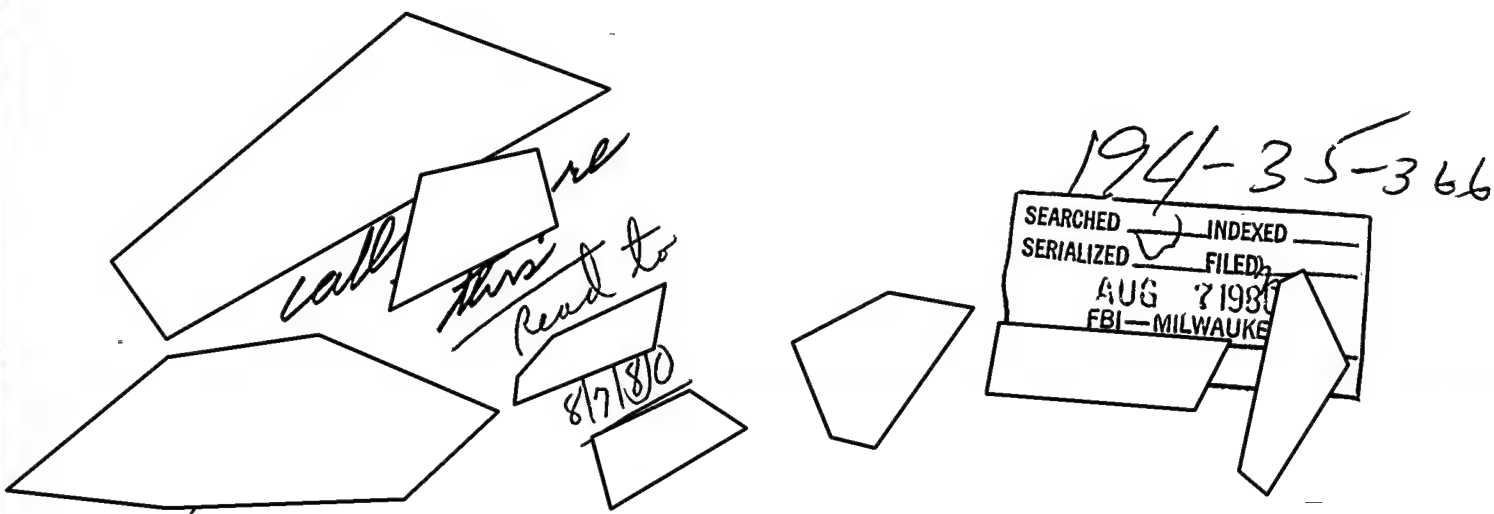
UNCLAS

ALEX J. RAINERI, CIRCUIT JUDGE, HURLEY, WISCONSIN; HOBBS ACT - OFFICIAL CORRUPTION; ITAR - PROSTITUTION; ITAR - BRIBERY; PERJURY; OOJ, OO: MILWAUKEE.

RE LAS VEGAS TELETYPE TO MILWAUKEE, AUGUST 5, 1980.

FOR INFORMATION MILWAUKEE DIVISION, [redacted] b6 b7C AND WINCHELL ACCOUNTING FIRM, 608 LANDER, RENO, NEVADA, TELEPHONE 702-323-8131, CONTACTED THIS DATE REGARDING RECORDS FOR THE CAPRI MOTEL AT RENO, NEVADA.

[redacted] ADVISED THAT ACCORDING TO HIS RECORDS FOR THE CAPRI MOTEL WHICH HE REFERS TO AS "THE DAILY SHEET" INDICATES THAT RAINERI AND ONE OTHER PERSON STAYED AT ROOM 18 AT THE CAPRI MOTEL ON SEPTEMBER 17 AND 18, 1978, BEING b6 b7C



b6 b7C

CHARGED $20.00 PER DAY PLUS $1.20 TAX FOR A TOTAL BILL PAID IN CASH ON SEPTEMBER 18, 1980, OF $42.40.

IN VIEW OF THE FACT THAT NO MORE LEADS HAVE BEEN SET FORTH FOR LAS VEGAS DIVISION AT THIS TIME, THIS MATTER BEING RUC'D.

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FM LAS VEGAS (194-38) (RUC)

TO MILWAUKEE (194-35) ROUTINE

BT

UNCLAS

ALEX J. RAINERI, CIRCUIT JUDGE, HURLEY, WISCONSIN; HOBBS ACT - OFFICIAL CORRUPTION; ITAR - PROSTITUTION; ITAR - BRIBERY; PERJURY; OOJ, OO: MILWAUKEE.

RE MILWAUKEE AIRTEL TO DIRECTOR, JULY 18, 1980.

FOR INFORMATION MILWAUKEE DIVISION, INVESTIGATION CONDUCTED AT HOLIDAY INN, RENO, NEVADA, DETERMINED NO RECORD CONCERNING [redacted] COULD BE FOUND INDICATED [redacted] ACCOMPANIED RAINERI AT RENO, NEVADA, IN SEPTEMBER AND OCTOBER OF 1978. CONTACT AT THE HOLIDAY INN RESULTED IN INTERVIEW WITH HOTEL [redacted] AT WHICH TIME [redacted] ADVISED THAT ANY SUBPOENAES DIRECTED TO THAT HOTEL SHOULD BE DIRECTED TO THE CUSTODIAN OF RECORDS, HOLIDAY INN HOTEL, 000 EAST 6TH STREET, RENO, NEVADA, IN CARE OF [redacted] HIMSELF.

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Please call re this

Read to 8/7/80

194-35-367

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SEARCHED ✓ INDEXED
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AUG 7 1980
FBI—MILWAUKEE

INVESTIGATION AT THE NATIONAL JUDICIAL COLLEGE AT THE UNIVERSITY OF NEVADA - RENO CAMPUS DETERMINED THAT RAINERI WAS AT THE JUDICIAL COLLEGE IN 1978, ATTENDING THE GENERAL JURISDICTION COURSE AND AT THAT TIME INDICATED TO THE COLLEGE PERSONNEL THAT HE WAS STAYING AT THE CAPRI MOTEL, RENO. IT SHOULD FURTHER BE NOTED THAT RAINERI ATTENDED THE JUDICIAL COLLEGE FROM SEPTEMBER 30, TO OCTOBER 5, 1979, ATTENDING THE CIVIL LITIGATION COURSE AND STAYED AT THE ELDORADO HOTEL AND IN 1980, ATTENDED THE JUDICIAL COLLEGE FROM MARCH 23, TO MARCH 28, AT WHICH TIME HE ATTENDED THE TRAFFIC COURT SESSION AND STAYED AT THE GATEKEEPER MOTEL.

INVESTIGATION ON AUGUST 4, 1980, AT THE CAPRI MOTEL, 895 NORTH VIRGINIA, RESULTED IN INTERVIEW WITH HOTEL [redacted] [redacted] CAUSED RECORDS OF THAT MOTEL TO BE SEARCHED IN THE NAME OF RAINERI AND [redacted] WITH NEGATIVE RESULTS, HOWEVER, [redacted] ADVISED HE RECALLED THE NAME RAINERI AND CHECKED WITH HIS BOOKKEEPER AND DETERMINED THAT RAINERI DID STAY AT THE CAPRI MOTEL FROM SEPTEMBER 17 TO SEPTEMBER 18, 1978, AND THE RECEIPT INDICATED THAT TWO PEOPLE WERE IN THE ROOM. [redacted] ADVISED THAT HE DOES NOT HAVE THE RECEIPTS

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SHOWING THIS INFORMATION, BUT INSTEAD OBTAINED THE INFORMATION FROM HIS BOOKKEEPER, THE BOOKKEEPER BEING [redacted] THE BOOKKEEPER HAVING REFERRED TO BOOKKEEPING SHEETS TO OBTAIN THIS INFORMATION. [redacted] EXPLAINED THAT [redacted] WAS RUNNING THE MOTEL IN 1978, BUT HAS SUBSEQUENTLY BEEN [redacted] AND SHE CURRENTLY RESIDES IN [redacted] LOCATION UNKNOWN TO [redacted] ADVISED THAT [redacted] IS CURRENTLY RUNNING THE MOTEL. b6 b7C

MILWAUKEE BE ADVISED THAT THE BOOKKEEPING FIRM WHO DOES THE BOOKKEEPING FOR THE CAPRI MOTEL IS THE FIRM OF [redacted] [redacted] 608 LANDER, RENO, NEVADA, TELEPHONE [redacted] b6 b7C

BT

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Judge collected prostitution proceeds, witness says

MADISON, Wis. (AP) — Alex Raineri, suspended recently as an Iron County circuit judge, helped count cash earned by prostitutes, according to testimony in documents filed in U.S. District Court.

Raineri, 62, has been charged with five criminal counts, including perjury, having a witness threatened and interstate activity for prostitution.

He is accused of involvement in the Show Bar, a Hurley tavern destroyed by fire last year, and of lying to a federal grand jury in Madison.

U.S. Attorney Frank Tuerkheimer said Raineri testified March 18 that he did not travel to a judicial meeting in Reno, Nev., with Cira Gasbarri, the operator of the Show Bar, but met her there by chance.

Ms. Gasbarri, however, testified that she and Raineri drove to Minneapolis and took a flight together, Tuerkheimer said in an affidavit.

Her testimony was corroborated, the affidavit said, by used flight coupons from the airlines and Raineri's personal checks.

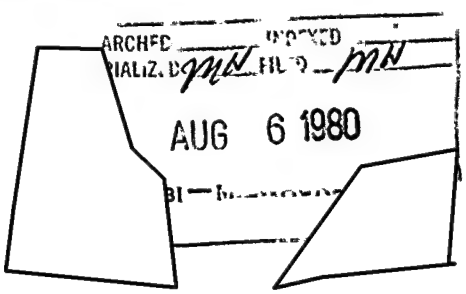
Ms. Gasbarri also "testified that (Raineri) helped get dancers, that he used to do most of the book work, and that he collected the

One grand jury witness said she watched Raineri count cash income from prostitution that was kept in envelopes in a cash register, the affidavit said.

Other handwriting and fingerprint evidence linked Raineri to many checks involving the Show Bar between May 1978 and March 1979, Tuerkheimer said.

Raineri has been suspended from the bench without pay by the state Supreme Court until the case is completed. Jury selection for his trial is set for Aug. 29.

Raineri also faces a complaint from the state Judicial Commission, which accused him of violating the judicial ethics code by hearing a drunken driving case against his brother-in-law. That complaint is scheduled to be heard by the Supreme Court Aug. 11.



(Indicate page, name of newspaper, city and state.)

Date:
Edition:
Title: Daily Herald Wausau, Wi.
Character: 194-35
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Classification:
Submitting Office:
194-35-368

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FBI/DOJ

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Two checks cashed by a Hurley prostitute contained the fingerprints of Iron County Circuit Judge Alex J. Raineri, according to an affidavit filed in federal court. According to a UPI story out of Madison, U.S. Atty. Frank Tuerkheimer said an FBI expert told a federal grand jury he could identify Raineri's fingerprints "on a stub of two Show Bar (a former nightclub in Hurley) checks drawn and cashed by a Show Bar prostitute." Tuerkheimer also said he has flight coupons and personal checks of Raineri's which show the judge made a flight to Reno, Nev., with the operator of the Show Bar, Cira Gasbarri. Raineri, 62, is charged with three counts of involvement with prostitution at the Show Bar, one count of perjury and one count of trying to obstruct justice by threatening a witness.

(Indicate page, name of newspaper, city and state.)

Lakeland Times

Date: 8/7/80
Edition:

Title: alex J. Raineri

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Submitting Office: 194-35

194-35-369

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FBI — MILWAUKEE

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FD-36 (Rev. 7-27-76)

FBI

TRANSMIT VIA:
- ☐ Teletype
- ☐ Facsimile
- ☒ Airtel

PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ E F T O
- ☐ CLEAR

Date 8/8/80

TO: SAC, MILWAUKEE (194-35)

FROM: SAC, LOS ANGELES (194-57) (P) (22)

RE: ALEX J. RAINERI,
Circuit Judge,
Hurley, Wisconsin,
HOBBS ACT - OFFICIAL CORRUPTION;
ITAR - PROSTITUTION;
ITAR - BRIBERY;
PERJURY; OOJ
OO: Milwaukee

Re Milwaukee airtel to the Bureau dated 7/18/80.

With respect to the information obtained from [redacted] Western Airlines Corporate Offices, Los Angeles International Airport (LAX), a subpoena duces tecum should be issued to [redacted] Legal Department, Western Airlines Corporate Offices, Post Office Box 92005, Los Angeles, California 90009, specifically describing all of the Western Airlines ticket information which has previously been furnished to Milwaukee. b6 b7C

The individual who will actually testify regarding Western Airlines ticket information is [redacted] Revenue Accounting Support, telephone number [redacted] is not aware of the information which has been furnished to Milwaukee and requests telephonic contact should her appearance be necessary. b6 b7C

2 - Milwaukee
2 - Los Angeles

SED/cks
(4)

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194-35-370

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SERIALIZED ____ FILED ____
AUG 11 1980
FBI — MILWAUKEE

Approved: [redacted] Transmitted _____ (Number) _____ (Time) Per [redacted] b6 b7C

FD-36 (Rev. 5-22-78)

FBI

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[XX] Teletype	[ ] Immediate	[ ] TOP SECRET
[ ] Facsimile	[ ] Priority	[ ] SECRET
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		[XX] UNCLAS

Date 8/12/80

FM MILWAUKEE (194-35) P

TO DIRECTOR (194-1122) ROUTINE 002-0141Z

NEW YORK (194-159) ROUTINE 003-0024Z

BT

UNCLAS

ALEX J. RAINERI, CIRCUIT JUDGE, HURLEY, WISCONSIN; HOBBS ACT - OFFICIAL CORRUPTION; ITAR - PROSTITUTION; ITAR - BRIBERY; PERJURY; OOJ; OO: MILWAUKEE.

FOR INFO, SUBJECT INDICTED JUNE 6, 1980, BY FGJ AT MADISON, WISCONSIN, TRIAL WAS SET FOR AUG. 29, 1980, BUT HAS BEEN TEMPORARILY POSTPONED AWAITING RULING ON MOTIONS, EXACT TRIAL DATE NOT YET KNOWN.

CONDUCTED INVESTIGATION HAS IDENTIFIED BANK ACCOUNT AT GOGEBIC NATIONAL BANK, IRONWOOD, MICHIGAN, HELD JOINTLY BY RAINERI [redacted] USED BY SUBJECT FOR APPARENT SECURITIES PURCHASES. BETWEEN JAN. 1, 1977, AND CLOSING OF ACCOUNT APRIL, 1980, APPROXIMATELY $93,000 HAS PASSED THROUGH THIS ACCOUNT. [redacted] HAS RESIDED FOR NUMBER OF YEARS IN [redacted]

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1 - Los Angeles (194-57) (AM)
1 - Milwaukee

[redacted]

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Appr[redacted] Transmitted C-TOP (Number) (Time)

FBI/DOJ

194-35-371

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- ☐ Teletype
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PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date _____

PAGE TWO MI 194-35 UNCLAS

WHERE SHE IS EMPLOYED AS ADVERTISING EXECUTIVE, AND IT APPEARS THAT SUBJECT HAS SIGNED HER NAME TO A NUMBER OF CHECKS. SOME CHECKS WRITTEN ON ABOVE ACCOUNT TO [redacted] DEPOSITED INTO HER PERSONAL ACCOUNT AT CITIBANK, UPPER MANHATTAN BRANCH, NEW YORK. USA, MADISON, FEELS THAT INTERVIEW OF [redacted] MAY BE OF CRITICAL IMPORTANCE AND HAS REQUESTED PARTICIPATION OF EITHER MILWAUKEE CASE AGENT OR HIMSELF AT INTERVIEW. IT MIGHT BE EXPECTED THAT [redacted] WOULD DECLINE INTERVIEW, IN WHICH CASE SHE WILL BE SUBPOENAED AS A HOSTILE WITNESS.

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BUREAU SHOULD NOTE CHANGE IN TRIAL DATE AS EXPERTS FROM FBI LAB AND LATENT FINGERPRINT SECTION OF IDENT DIVISION WILL BE WITNESSES.

NEW YORK THROUGH ACCOUNT AT CITIBANK, LOCATE SUBJECT'S [redacted] AND DETERMINE HER WILLINGNESS TO BE INTERVIEWED BY SA OR USA FROM WISCONSIN; ADVISE RESULTS. NO REQUEST FOR AGENT TRAVEL BEING MADE PRIOR TO RECEIPT OF THIS INFORMATION.

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b7C

AIR MAIL INFORMATION COPY TO LOS ANGELES.

BT

Approved: _____ Transmitted _____ (Number) _____ (Time) Per _____

FBI/DOJ

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA, *

v. * No. 80-CR-29

ALEX J. RAINERI, *

Defendant. * Affidavit

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Frank M. Tuerkheimer, being duly sworn, deposes and says:

1. I am the United States Attorney for the Western District of Wisconsin and am in charge of the above matter, having been so since its inception as far as any action by the United States Attorney's office is concerned.

2. This affidavit is submitted in opposition to various motions made by the defendant Raineri. Because some of the assertions in this affidavit have bearing on more than one of those motions, one affidavit is submitted to avoid needless repetition. The accompanying memorandum of law is organized to respond directly to Raineri's motions and any position of law predicated on any part of this affidavit refers to the relevant paragraphs in the affidavit.

3. All assertions of fact, unless otherwise stated, are based on personal knowledge.

4. Special Agent [redacted] of the Federal Bureau of Investigation, who has been in exclusive charge of the investigation for that agency informed me he began the investigation in November 1979. The investigation first received more than cursory attention by the United States Attorney's office in January of 1980. Witnesses testified before the grand jury in each of the succeeding five months. The defendant himself testified in March and April, 1980. The indictment was voted on June 6, 1980, with all 20 members of the grand jury present concurring in the vote.

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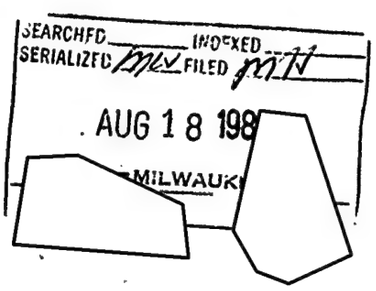
194-35-372



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5. From the inception, I have understood that the original allegation of wrongdoing by Raineri came from [redacted] the person running the Show Bar in Hurley. Therefore, it struck me as critically important to see whether what she said about Raineri's involvement in prostitution activities at the Show Bar was corroborated or contradicted. This was important not only to ensure the basic integrity of the grand jury process, but also to assure myself that any charges which might be brought were well founded. It was in this vein that the grand jury investigation began and was taken through to completion. b6 b7C

6. The indictment contains five counts. The first three basically allege Raineri's involvement in prostitution activities at the Show Bar. The fourth count alleges false testimony on his part when he denied before the grand jury that he traveled with [redacted] to and from a judicial conference in Reno, Nevada, during a three-week period in September and October, 1978, while he was a Circuit Judge. The fifth count alleges that Raineri endeavored to obstruct justice by arranging to threaten a prospective witness before the grand jury -- Patricia Colassaco. In order to deal with the claim that significant exculpatory evidence was improperly withheld from the grand jury, that the false declarations alleged in count IV are not material, and that severance is required, it is necessary to review in detail the evidence that was produced on each of those charges. To the extent that these facts are relied on in the discussion on materiality and severance, it can safely be assumed that those are the facts that will compose at least part of the government's case-in-chief. The review of the facts in this affidavit is not meant to be exhaustive. b6 b7C

PERJURY CHARGE

7. In connection with the charge contained in count IV, [redacted] testified before the grand jury that in September of 1978, the defendant picked her up at her house and drove to Minneapolis, they flew from there to Salt Lake City, Utah, and then to Reno, Nevada. They returned together about three weeks later. Raineri, on the other hand, testified that they did not travel together, that he went to the judicial conference in Reno alone and by accident met a member of [redacted] family and as a consequence, met her. He then testified they spent about a day together. His version of the trip is alleged to be false. b6 b7C

8. To assist the grand jury in resolving this irreconcilable conflict, used flight coupons from Western Airlines were introduced into evidence. They showed that [redacted] and Raineri traveled on the same flight from Minneapolis to Salt Lake City to Reno in September and then back again from Reno to Salt Lake City to Minneapolis in early October. In addition, copies of Raineri's personal checks were placed in evidence before the grand jury. They showed he paid not only for his own travel but for [redacted] as well. b6 b7C

9. Needless to say, proof of falsity in connection with the defendant's testimony was probative not only with respect to the charge contained in count IV, but the events occurring on the following day which are the subject of the obstruction charge in count V and, because they show false exculpatory statements, are highly probative of the charges contained in the first three counts as well.

OBSTRUCTION CHARGE

10. Patricia Colassaco testified before the grand jury that while a bartender at the Show Bar she had observed the female dancers and male customers going upstairs to the bedrooms above the Show Bar and had complained to Raineri and [redacted] that active prostitution was going on at the Show Bar. She testified further that Raineri told her that she couldn't get into any trouble as a consequence and further asked her if she wanted to manage the Show Bar, an opportunity she declined. She had previously, in December, 1979, told Special Agent [redacted] basically the same thing. b6 b7C

11. Raineri, on the other hand, in his March 18, 1980, testimony, denied that anyone ever told him there was prostitution at the Show Bar. He was specifically asked whether Patricia Colassaco did and he denied that as well.

12. The following day, March 19, 1980, according to the grand jury testimony of Kenneth Colassaco, Patricia's brother and a Hurley policeman, Raineri asked him to talk to his sister to get her to quit telling lies, keep quiet and that if she didn't want to listen to her brother, Raineri could get a couple of guys to talk to her to get her to stop telling lies and keep her mouth shut. That testimony, focusing on events the day after Raineri was asked in the grand jury if Patricia Colassaco had ever told him there was prostitution at the Show Bar, forms the basis of the charge in count V.

13. When Raineri was asked about the critical communication with Ken Colassaco in his April grand jury appearance he admitted talking to Ken Colassaco after his March 18 appearance but denied trying to have Patricia Colassaco threatened.

INVOLVEMENT IN PROSTITUTION

14. [redacted] testified that Raineri was deeply involved in the running of the Show Bar business. She testified that he helped get dancers, that he used to do most of the book work, and that he collected the prostitution proceeds. At trial she will also testify that he regularly gave her cash, paid for travel and other things and helped her with the business. In connection with the proceeds, she also testified that, "Whatever the girls got paid, well, we would get half of." [redacted] testified that in late 1978 she saw Raineri count the cash proceeds from prostitution which [redacted] had kept in envelopes in the cash register and brought to [redacted] and Raineri in [redacted] house after [redacted] and Raineri came back from a trip to Milwaukee together. (Raineri admitted such trips.)

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15. Raineri denied he was involved in the hiring and firing of dancers. He said he never got a dime from the Show Bar, that he was not involved in the business end of the place, that he wasn't involved in payroll questions, and that he had no involvement in its financial records. The basic thrust of his grand jury testimony (which is, of course, all exculpatory evidence) was to deny any involvement, stating explicitly that [redacted] was capable of running the business.

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16. The conclusions of an F.B.I. handwriting expert were put into evidence before the grand jury. They revealed that in a large number of instances from May of 1978 to March 1979 the handwriting on the original check stubs of the Show Bar was Raineri's including the stub for the check which is mentioned in count III. (On January 1, 1978, Raineri became Circuit Judge for Iron County; in the many years preceding, he had been District Attorney.) His handwriting was also found on a number of voided checks, the originals of which were retained by [redacted] In addition, an F.B.I. fingerprint expert's conclusions were put into evidence before the grand jury revealing that Raineri's fingerprints were identifiable on the stub of two Show Bar checks drawn to and cashed by a Show Bar prostitute.

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17. Additional evidence showing Raineri's involvement in the Show Bar consisted of the hearsay statement of a prostitute that Raineri had been involved in recruiting her, hearsay evidence that Raineri, in April of 1979, had spoken at length to a State Alcohol and Tobacco Enforcement agent in an effort to dissuade him from continuing his enforcement activities while at the Show Bar, and that Raineri notarized Show Bar liquor license applications which had been signed in blank. Raineri had denied involvement in hiring, denied the conversation with the State Alcohol and Tobacco Enforcement agent, and denied ever notarizing liquor license applications in blank.

EXCULPATORY EVIDENCE

18. Raineri himself was called before the grand jury and given an opportunity to explain his version of the facts which he did. At the end of his March 18, 1980, appearance he was asked, "Is there anything which you feel is relevant to this investigation which you haven't had a chance to tell the grand jurors which you think you ought to? If there is such a thing, feel free to tell it." In response to this open-ended question Raineri said, "Yeah, I had nothing to do with the financing, the operating, I received no money, I had nothing to do with hiring girls, I had nothing to do with the type of operation at the Show Bar in Hurley at no time." He stated that he was a friend of [redacted] for many years through her husband, that he was a friend of her husband's all his life as well as Richard Mattrella. "But as far as running the Show Bar, it was hers, the way she ran it was her responsibility, if there was a profit made she got it; if there was a loss it was her worry, I had nothing to do with it, that's all I can say." b6 b7C

19. A reading of Raineri's testimony reveals, however, that he did not feel restricted in commenting on persons whom he thought might be testifying against him. With respect to [redacted] he stated that she was a paranoid, constantly complaining that everyone was cheating her and intimated very strongly that she was a lesbian. With respect to [redacted] he gratuitously stated that he had put [redacted] and with respect to Patricia Colassaco, stated that she was a good friend of [redacted] that she tended bar at a whore-house, and would herself foster prostitution. b6 b7C

20. As has been noted, [redacted] testified that whatever the girls got paid, "we would get half of." In this connection a Show Bar dancer, [redacted] b6 b7C [redacted] was called on the same day as [redacted] testified. She testified that she had been working at the Show Bar, had committed acts of prostitution with men she met there, and then when she was asked whether she split the proceeds with the Show Bar in any way, she answered, "With nobody."

21. Through Special Agent [redacted] a statement of [redacted] a prostitute who worked at the Show Bar, was put into evidence. [redacted] had told [redacted] that Raineri was involved in recruiting her to work for the Show Bar. At the end b6 b7C of [redacted] testimony about what she said, he was asked whether [redacted] was presently in [redacted] he said, "That's correct." He was then asked whether [redacted] spoke to him after she had been promised either directly or through her attorney that nothing she said would be used against her and [redacted] answered, "That is correct."

22. The essence of what [redacted] told [redacted] was also placed into evidence before the grand jury. [redacted] mentioned that he, [redacted] himself, had had several [redacted] activities and then was asked whether he also b6 b7C had a [redacted] and [redacted] responded that he did.

23. Before the grand jurors were asked to vote they were asked on a number of occasions whether there was any further evidence or any other thing they wanted to hear. There was no indication that they desired any further evidence.

24. On Friday, July 11, 1980, I spoke to Mr. Joseph W. Skupniewitz, Clerk of Court and he told me that during the past 15 years there have been no federal trials in Hurley and he is aware of none from the preceding period. He said there is no federal court facility in Hurley. Mr. Skupniewitz also told me he needs six weeks' notice to set in motion the jury selection process for a trial in Hurley or Superior.

25. Mr. Skupniewitz told me that the federal court facility in Superior has been declared surplus by the courts, turned over to the General Services Administration and is no longer a functioning courtroom in that some movable court furniture and the entire library have been removed from the building. He stated he doesn't know whether the building still stands or what has happened to the remaining furniture in it and suggested I call the General Services Administration to determine the present state of the courtroom.

26. As a consequence of this conversation with Mr. Skupniewitz I asked my secretary, [redacted] to call the General Services Administration to determine the present state of the Superior courtroom. Her affidavit reflecting what she learned is attached to this affidavit. b6 b7C

27. The United States Attorney's office does not have any facilities, including library facilities, in Hurley or Superior, Wisconsin. I have also asked [redacted] to call the Iron and Douglas County Law Libraries to determine what is available to research questions of federal law. b6 b7C

28. At the trial of this case I intend to call at least four witnesses from the Madison area and four to six witnesses from outside the State.

29. Pursuant to the Discovery Order entered in this case, I have turned over to the defense all available F.B.I. reports of every witness I intend to call as part of the prosecution's case in chief who will testify as to direct dealings with Raineri. This representation is made in connection with Raineri's motion for a bill of particulars.

Frank M. Tuerkheimer
United States Attorney

Subscribed and sworn to before
me this_____day of_____, 1980.

Notary Public, Wisconsin

My commission (is)(expires):_____.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA *

v. * No. 80-CR-29

ALEX J. RAINERI, *

Affidavit

Defendant. *

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

[redacted] being duly sworn, deposes and says: b6 b7C

1. I am employed as a secretary in the United States Attorney's Office and in that capacity I assist the United States Attorney in connection with all phases of his work.

2. On July 11, 1980, Mr. Tuerkheimer asked me to call the General Services Administration to determine the state of the federal court facility in Superior, Wisconsin. As a result, I spoke with [redacted] of General Services Administration in Duluth, Minnesota, on July 11, 1980. [redacted] informed me in connection with the federal court facility in Superior that GSA will be moving the benches out of the courtroom around July 16 and that after that there will be no furniture left in the courtroom -- it will be entirely empty. b6 b7C

3. On July 15, 1980, at Mr. Tuerkheimer's request, I spoke with Jack Prospero, Clerk of Courts for Iron County, Hurley, Wisconsin, who stated that he handles the Iron County Law Library. He informed me that the Iron County Law Library did not contain the following volumes: United States Reports, Federal Supplement, Federal Reporter (2nd Series), United States Code Annotated, Shepherd's Citations, Modern Federal Practice Digest, and West's Federal Practice Digest.

4. On July 15, 1980, at Mr. Tuerkheimer's request, I spoke with [redacted] for Douglas County, and she informed me that the Douglas b6 b7C

County law library did contain the following volumes: United States Reports, Federal Supplement, United States Code Annotated, Federal Reporter (2nd Series). [redacted] further informed me that the Douglas County Law Library did not contain the following volumes: Shepherd's Citations, Modern Federal Practice Digest, and West's Federal Practice Digest. [redacted] further informed me that the volumes which are not available in the Douglas County Law Library are in the St. Louis County Law Library, Duluth, Minnesota, which is open from 8:00 A.M. to 4:30 P.M., Monday through Friday.

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[redacted]

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Subscribed and sworn to before me
this _____ day of July, 1980.

_____
Notary Public, State of Wisconsin

My commission (is) (expires) _____.

FD-302 (REV. 11-27-70)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/5/80

[redacted] was contacted at his residence, [redacted] Prior to interview, he was advised of the official identity of the interviewing Agent and that the interview concerned events which took place in Hurley, Wisconsin, approximately two years before. [redacted] advised that he recalls the trip. He advised it was a fishing trip and when they arrived in Hurley, there was discussion with himself and his father, [redacted] regarding setting up [redacted] He recalled that one site for a [redacted] would have been near a bridge. b6 b7C

[redacted] was displayed a [redacted] consisting of [redacted] He advised he did not recognize any of the persons in the [redacted] as being the person whom they dealt with. The photospread consisted of [redacted] Alex Raineri, [redacted] b6 b7C b7E

[redacted] advised that he did not recall any statement being made in his presence to the effect that it would be safe to run a [redacted] in Hurley or the police would not bother them. [redacted] advised that he mainly remained in the camper which belonged to [redacted] or drank coke in the Show Bar when the discussions were taking place. He advised he did look at a building to see what needed to be done to turn it into a [redacted] He advised he knew nothing of any plans to put a bar in his name. b6 b7C

[redacted] advised that he did not recall the year that this took place but recalled it was in the fall. b6 b7C

[redacted] advised that [redacted] probably lives in [redacted] He advised that [redacted] is probably still on [redacted] and he may have had his [redacted] b6 b7C

Interviewed on 7/24/80 [redacted] St. Charles, South Dakota File # Minneapolis 194-41

MI - 194-35-323

by SA [redacted] Date dictated 7/30/80 b6 b7C

[redacted] advised that both himself and his father are on [redacted] and that both have [redacted]

b6
b7C

[redacted] advised he is not involved in any way with [redacted] and can be reached at telephone number [redacted]

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- ☐ Teletype
- ☐ Facsimile
- XX AIRTEL

PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date 8/13/80

TO: SAC, MILWAUKEE (194-35)

FROM: SAC, MINNEAPOLIS (194-41) (RUC)

SUBJECT: ALEX J. RAINERI
CIRCUIT JUDGE
HURLEY, WISCONSIN;
HOBBS ACT - OFFICIAL
CORRUPTION;
ITAR - PROSTITUTION;
ITAR - BRIBERY;
PERJURY; OOJ

OO: MILWAUKEE

Reference Milwaukee Airtel to the Bureau 7/18/80.

Enclosed for Milwaukee are the original notes of the interview of [redacted] as well as the original and one copy of the FD-302 of the [redacted] interview on 7/24/80. b6 b7C

For the information of Milwaukee Division, it is recommended that attempts to locate [redacted] be initiated well in advance of trial. He was located previously at the [redacted] phone [redacted] Additionally, when interviewed [redacted] used an alias of [redacted] During a previous investigation it was noted that phone number [redacted] for Continental Baths in Winona, Minnesota is subscribed to by [redacted] is listed as the [redacted] Contact with various Probation Officers in Minnesota revealed that [redacted] is supposedly still under b6 b7C

(2) - Milwaukee (Encs. 3)
2 - Minneapolis
DFP:kcu
(4)

194-35-374

SEARCHED [redacted] INDEXED [redacted]
SERIALIZED [redacted] FILED [redacted]

AUG 1 0 1980

FBI - MILWAUKEE

Approv [redacted] Transmitted [redacted] (Number) (Time) w/302

Per [redacted] b6 b7C

☆ U.S. GOVERNMENT [redacted] 1980- [redacted] 02

MP 194-41

[redacted] of [redacted] phone [redacted] and it is felt that [redacted] would be the best place to start in order to locate [redacted]

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b7C

DL 194-64
MI 194-35
[redacted]
1

b6
b7C

The following investigation was conducted by Special Agent (SA) [redacted]

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AT DALLAS, TEXAS

On August 1, 1980, driver's license check was conducted for both [redacted] also known as [redacted] also known as [redacted] Search disclosed [redacted] date of birth [redacted] height [redacted] address [redacted] Search negative re [redacted] and alias.

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b7C

On August 6, 1980, [redacted] Credit Bureau of Services, Dallas, Texas, advised no record or identifiable information located for [redacted]

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b7C

On August 6, 1980, the following persons advised their records negative re [redacted]

[redacted] - Identification and Records Section, Dallas Police Department (DPD).

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b7C

[redacted] - Identification Section, Dallas County Sheriff's Office.

Photos and arrest records were obtained from the above agencies re [redacted] which disclosed that [redacted] in [redacted]

b6
b7C

On August 14, 1980, an attempt was made to locate [redacted] A Negro female by the name of [redacted] advised that she and her [redacted] live there along with a live-in babysitter. Upon being shown photos of [redacted] stated that she had never seen or heard of [redacted] before. [redacted] was not at home at the time. [redacted] stated that her telephone number at the house is [redacted] The telephone number is unpublished. b6 b7C

On August 15, 1980, [redacted] of [redacted] was contacted at the [redacted] where she is currently [redacted] She stated that [redacted] address. [redacted] was shown the photographs of [redacted] She stated that she had never heard of [redacted] nor had she ever seen the person in the photograph. b6 b7C

On August 18, 1980, [redacted] was contacted at [redacted] He stated that [redacted] lived at his house for the past two months, until approximately two weeks ago, [redacted] told [redacted] that she was going back to Milwaukee to visit her mother. [redacted] stated that he does not know when [redacted] will return to [redacted] The last time [redacted] visited her mother, she was gone for several months, [redacted] furnished the following telephone number for [redacted] mother in Milwaukee: b6 b7C

[redacted]

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- ☐ Teletype
- ☐ Facsimile
- ☒ AIRTEL

PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date 8-20-80

TO: SAC, MILWAUKEE (194-35)

FROM: SAC, DALLAS (194-64) (RUC)

SUBJECT: ALEX J. RAINERI
CIRCUIT JUDGE
HURLEY, WISCONSIN;
HOBBS ACT - OFFICIAL CORRUPTION;
ITAR - PROSTITUTION;
ITAR - BRIBERY;
PERJURY; OOJ

OO: MILWAUKEE

Re Milwaukee airtel to the Bureau, dated 7-18-80.

Enclosed for Milwaukee is the original and two copies of an investigative insert reflecting investigation conducted at [redacted] Also enclosed are photographs of [redacted]

Investigation at [redacted] disclosed that [redacted] was staying at the home of [redacted] until approximately two weeks ago. According to [redacted] is visiting her mother in Milwaukee, telephone number [redacted] Investigation re [redacted] negative.

b6
b7C

b6
b7C

2-Milwaukee (Enc. 4)
1-Dallas
[redacted]
(3)

194-35-376
SEARCHED [redacted] INDEXED [redacted]
SERIALIZED [redacted] FILED [redacted]
AUG 25 1980
FBI—MILWAUK[redacted]
[redacted]

b6
b7C

Approved [redacted] Transmitted _____ (Number) _____ (Time) Per _____

b6
b7C

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980-305-750/5402

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:	PRECEDENCE:	CLASSIFICATION:
☐ Teletype	☐ Immediate	☐ TOP SECRET
☐ Facsimile	☐ Priority	☐ SECRET
☐ AIRTEL	☐ Routine	☐ CONFIDENTIAL
		☐ UNCLAS E F T O
		☐ UNCLAS

Date 8/21/80

TO: SAC, MILWAUKEE (194-35)

FROM: SAC, DENVER (194-60)(RUC)

SUBJECT: ALEX J. RAINERI,
CIRCUIT JUDGE,
HURLEY, WISCONSIN;
HOBBS ACT - OFFICIAL
CORRUPTION; ITAR-PROSTITUTION;
ITAR-BRIBERY; PERJURY; OOJ
OO: MILWAUKEE

Re Milwaukee airtel to the Bureau, 7/18/80.

Enclosed is photograph of [redacted] b6 b7C
Also enclosed is identification records from Denver Police Department for [redacted]

On 7/30/80, [redacted] Colorado Department of Motor Vehicles, Denver, Colorado, advised he is unable to locate any vehicles or a drivers license in Colorado for [redacted] b6 b7C

On 8/4/80, [redacted] Denver Police Department (DPD) Identification Bureau, made available a microfilm copy of an identification record for [redacted] He advised no photograph of [redacted] is available. b6 b7C

On 8/8/80, Detective [redacted] DPD Vice Bureau, advised he has not received any information regarding the whereabouts of [redacted] since last contacted regarding her by the FBI. He advised he has located a DPD record for a [redacted] He provided a [redacted] b6 b7C

2 - Milwaukee (Encs. 3)
1 - Denver
[redacted]
(3)

194-35-379

SEARCHED [redacted] INDEXED [redacted]
SERIALIZED [redacted] FILED [redacted]
AUG 25 19[redacted]
FBI—MILWAUK[redacted]

[redacted] b6 b7C

Approved: [redacted] Transmitted [redacted] (Number) (Time) Per [redacted]

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980-305-750/5402

photo and record for [redacted] He advised he knows of no present bar in Denver known as the "Show Bar" but several years ago there was a bar on South Broadway in Denver known as "Denny's Show Bar". He advised Denny's Show Bar was operated by [redacted] b6 b7C

[redacted] is now the [redacted] of Bebo's Lounge, 5910 E. Colfax, Denver, a local "strip joint".

On 8/8/80, [redacted] was contacted at Bebo's Lounge. He advised several years ago he was acquainted with a black female prostitute named [redacted] who also went by [redacted] He advised he never knew her last name and has not seen or heard from her for several years. The last he knew of her she was dancing for an unknown "outfit" in Wisconsin. He believes b6 b7C if she had returned to Colorado he would have heard from her or at least about her being back. He advised he would contact the FBI if he heard from [redacted] He additionally advised he does not know anyone who is still around that might have known [redacted] when she was in the area. She was never an employee of Denny's Show Bar according to [redacted] and he never knew of her being employed at any bars or lounges in Denver.

Review of telephone and city directories regarding [redacted] all negative. b6 b7C

1-17 (Rev. 10-30-79)

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20537

AUG 19 1980 54

USM
Madison, Wisconsin 53701
Alex J. Raineri, #01786-090, (2,5), June 23, 1980
State Travel in aid of Racketeering False Declaration before
Grand Jury Influencing Juror or Witness

The finger impressions which have the number in individual finger blocks circled on the attached cards are not susceptible of accurate classification because of one or more of the various reasons listed below. Each fingerprint card indicates by number or notation on the back of the fingerprint card the particular reason or reasons for its return.

(1) Ink was unevenly distributed
(2) Fingers not fully inked or rolled
(3) Too much ink
(4) Insufficient ink
(5) Some impressions smudged, possibly fingers slipped while being rolled, or fingers not clean and dry
(6) Ridge characteristics not distinct, possibly due to the nature of the individual's employment or some other cause. Legible prints may be obtained after a few days
(7) Hands have been reversed
(8) One or more fingers printed twice
(9) One or more impressions missing or partially missing Please indicate if there is an amputation. If no amputations, obtain these fingerprints. In cases of bent or paralyzed fingers, it is suggested that a spoon or similar instrument be used and the fingers be printed individually
(10) Fingerprints not in sequence in spaces indicated
(11) Impressions not black on standard white fingerprint card stock.
(12) Fingerprint ink not permanent.

Due to the volume of fingerprints contained in the fingerprint files of the FBI, and the use of super break-ups and extensions in conjunction with the Henry Classification System, it is necessary to obtain exact ridge counts and tracings of all ten fingers in order to search our files properly.

In the event of serious injury to a finger precluding the taking of prints of the finger at this time, it is suggested that printing be done at a later date when a complete set of prints may be secured.

It is suggested that reprints be obtained and forwarded to the FBI for appropriate attention. When submitting the reprints it is not necessary to return the original fingerprint card, as only one copy of each set of fingerprints is necessary for retention in this Bureau's files.

194-35-380

SEARCHED ... INDEXED ... SERIALIZED ... FILED ...

AUG 25 1980

FBI

For your information, a check by name only has been made on the enclos[illegible] with negative results.

Thank you for your cooperation in this matter.

Identification Division
FBI

b6
b7C

If this individual is subject of Bu[illegible] case, you should follow to insure that acceptable fingerprints are submitted to FBIHQ. If prints cannot be obtained advise FBIHQ by letter giving reasons.

1- FBI, Milwaukee

12/18/80- USM will re-print at sentencing

PLEASE NOTE INSTRUCTIONS ON REVERSE SIDE.

FBI/DOJ

PLEASE NOTE

Because of the vastness of our fingerprint records, it is imperative that the complete classification formula be employed for searching and filing in each instance. Accurate classifying depends primarily upon the best possible rolled impressions that can be taken.

Fully rolled, clear impressions allow for accurate pattern differentiation, ridge counting, whorl tracing, and interpretation of whorl types.

It is suggested that each newly completed fingerprint chart be examined to ascertain if it can be fully classified, bearing in mind the following: (1) loop-type patterns cannot be classified unless the center of the loop, the delta, and the ridges between them are clear; (2) whorl-type patterns cannot be classified unless the deltas and the ridges connecting them are clear; (3) arch-type patterns can be classified as such only if a sufficiently clear impression is obtained to permit identification of the pattern as belonging to the arch category.

While a concerted effort is made to retain every fingerprint card forwarded us for processing, in some instances this is not possible. The FBI fully recognizes the occurrences of situations which challenge the ingenuity of the identification officer to secure legible impressions. All returned fingerprint cards do not necessarily reflect upon the ability of the operative taking the prints and no returns are made at any time with such a thought in mind.

Your earnest co-operation is solicited in obtaining the best possible impressions in each block on each fingerprint card forwarded us for search. By so doing you are rendering a real service and making a major contribution to all agencies participating in the fingerprint exchange program.

FD-302 (REV. 11-27-70)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription June 27, 1980

[redacted] was interviewed at her residence, [redacted] Wisconsin. After being advised of the identity of the interviewing Agent, [redacted] provided the following information: b6 b7C

[redacted] stated that during 1977 or 1978 a friend of hers, [redacted] telephone number [redacted] advised that she had danced at a bar in Hurley, Wisconsin, and through her [redacted] she and her sister, [redacted] met a woman they knew as [redacted] the owner of the Show Bar. b6 b7C

[redacted] advised she believed she danced at the Show Bar for about one week, Monday through Saturday, and was paid $125.00 by check. b6 b7C

[redacted] advised while she was at the Show Bar she was not aware of any prostitution activity, noting that [redacted] obviously opposed this type of activity and threatened to fire anyone involved in soliciting at the bar.

[redacted] recalled that the girls were encouraged to "push" champagne to the customers which cost $30.00 a bottle and that the girls received a commission on each bottle sold. b6 b7C

[redacted] continued that although [redacted] was supposedly the owner of the bar, she [redacted] named [redacted] who appeared to run the bar in her absence. In addition to [redacted] stated that a man named Al, whom she believed to be [redacted] appeared to be taking over the place. [redacted] described Al as light haired, walked with a limp, wore diamonds and expensive clothing. [redacted] stated that Al was responsible for her being paid by check as it was he who told [redacted] to write a check instead of paying cash. [redacted] viewed a photograph of Alex Raineri and stated the photo resembled him. b6 b7C

Interviewed on 6/26/80 at Milwaukee, Wisconsin File # MI 194-35-381

by SA [redacted] Date dictated 6/27/80 b6 b7C

[redacted] was then shown a photograph of [redacted] possibly [redacted] and identified her as a prostitute - go-go dancer named [redacted] who is closely associated with [redacted] stated [redacted] previously worked at the Show Bar. b6 b7C

[redacted] was shown a photograph of [redacted] and identified her as a prostitute - go-go dancer known to her as [redacted] stated [redacted] closely associated with [redacted] and previously worked at the Show Bar. b6 b7C

FD-302 (REV. 11-27-70)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription July 8, 1980

[redacted] furnished the following information after being advised of the identity of the interviewing Agent and nature of the interview: b6 b7C

[redacted] advised that during 1976 or 1977 she danced at the Show Bar in Hurley, Wisconsin, a total of three times; the first two times for a two-week period, the second for one week. [redacted] stated she was booked at the Show Bar through her agent, Artists Promotion in Appleton, Wisconsin. b6 b7C

[redacted] stated the only people she recalls were the owner, [redacted] and another dancer named [redacted] whom she believed lived in or around Hurley. b6 b7C

[redacted] advised that [redacted] allowed no prostitution at the Show Bar and was known to dismiss an employee who solicited dates. b6 b7C

[redacted] was shown photographs of individuals associated with the Show Bar, including Alex Raineri, but was unable to identify any of them. b6 b7C

Interviewed on 7/7/80 at Milwaukee, Wisconsin File # MI 194-35-382

by SA [redacted] n/ Date dictated 7/8/80 b6 b7C

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- ☐ Teletype
- ☐ Facsimile
- ☐ Airtel

PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date 8/19/80

TO : SAC, MILWAUKEE (194-35) (P)

FROM: SAC, DETROIT (194-176) (RUC)

ALEX J. RAINERI;
Circuit Judge,
Hurley, Wisconsin
HOBBS ACT- PUBLIC CORRUPTION (B)
OO:MILWAUKEE

Reference telephone call of Special Agent (SA) [redacted] [redacted] Milwaukee Division, to Marquette RA of July 25, 1980. b6 b7C

On July 30, 1980, [redacted] was contacted and she stated that she vaguely knew a black female Go-Go dancer [redacted] Last Name Unknown (LNU), who was formerly employed at the Show Bar in Hurley, Wisconsin. [redacted] stated she did not know anything about [redacted] possible involvement in prostitution activities at the Show Bar. [redacted] added that the last time she saw [redacted] was employed as a bartender at a bar and lounge in Marquette, Michigan, known as Scarlet O'Haras. [redacted] stated that she did not have any information regarding [redacted] alleged affiliation with a Marquette, Michigan, insurance salesman. b6 b7C

It is noted that Scarlet O'Haras Lounge has been closed for approximately 1 and 1½ years.

Contact with local law enforcement officials was negative regarding any information pertaining to [redacted] LNU. b6 b7C

2 - Milwaukee
2 - Detroit
RMH:kas
(4)

194-35-383

SEARCHED [redacted] INDEXED [redacted]
SERIALIZED [redacted] FILED [redacted]

AUG 28 1980

Approved: [redacted]

Transmitted [redacted] Per [redacted]
(Number) (Time)

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980- [redacted] b6 b7C

DE 194-176

On August 11, 1980, contact with Ontonagon, Michigan Village Police Chief JAMES KITZMAN revealed that the name of the Fire Chief in Ontonagon is TOM BURGESS. Ontonagon has a volunteer Fire Department. KITZMAN pointed out that he knows of no one in the Ontonagon area who is called [redacted] He pointed out that BURGESS is not called "Big Tom". b6 b7C

On August 11, 1980, contact with Trooper [redacted] Michigan State Police Detachment, Bruce Crossing, Michigan, revealed that an individual named [redacted] resides near the community of Paynesville, Michigan. b6 b7C

On August 12, 1980, [redacted] was contacted and he stated that he used to frequent the Show Bar in Hurley, Wisconsin, and he knew a Go-Go dancer formerly employed there who's name is [redacted] stated that he did not engage in any prostitution activities with [redacted] in the rooms above the Show Bar, however. [redacted] added that he is completely unfamiliar with the subject and he has no knowledge regarding the subject's alleged involvement in the operation of the Show Bar. b6 b7C

For information Milwaukee Division, in the event that Detective Sergeant [redacted] Michigan State Police, needs to be contacted in the future, [redacted] has been reassigned from Negaunee, Michigan, to the Michigan State Police Post at Brighton, Michigan. The Brighton Post is known as Station 12, First District, and is located at 9995 East Grand River Avenue, Brighton, Michigan. Telephone number (313) 227-1051. b6 b7C

RUC Detroit.

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/17/80

[redacted] Gogebic National Bank, Ironwood, Michigan, advised that he could recall no accounts with his bank for [redacted] but identified account number [redacted] as being an account opened in 1963 in the name of [redacted] and/or Alex Raineri and maintained with his bank until the account was closed in April, 1980. He advised any additional records relating to this account would be furnished pursuant to a Federal subpoena duces tecum. [redacted] advised that he can personally identify Alex Raineri as a customer having a checking account at the Gogebic National Bank, as he personally knows Raineri and sees Raineri in his bank doing business.

b6
b7C

Investigation on 7/7/80 at Ironwood, Michigan File # MI 194-35-389

by SA [redacted] Date dictated 7/11/80

b6
b7C

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/28/80

Lois Gasbarri, 401 Hemlock, Ironwood, Michigan (906-932-2621), advised that her former husband, Jack "Jackpot" Gasbarri, was convicted for white slave traffic during World War II in connection with running a girl to Hurley, Wisconsin, from Minnesota. Jackpot at that time was running "Jackpot's Flame Bar" in Hurley. He was convicted in Federal Court in Minnesota. Prior to that, Jackpot had also done time at the House of Corrections, Milwaukee, Wisconsin, in connection with pimping activities. This was some time between their marriage in 1937-1938 and the Minnesota conviction. She believed that Jackpot had also been arrested by state investigators at Hurley, Wisconsin, but did not do time for this.

She has also served time in prison for prostitution activities, first in 1960 when she served 13 months at Taycheedah, and again the early 1970's, 1971 or 1972, when she was convicted in Federal Court at Madison, Wisconsin. This was when she quit the business.

During the entire time when she was running the Club 13, Hurley, from around 1963 or 1964 until 1972, she was making payoffs monthly to her now former husband, Jackpot Gasbarri. Jackpot stated that these payoffs, $100 per month, were "Alex's cut so we can operate", the Alex being Alex Raineri. Club 13 had originally been partly owned by Jackpot and Dick Mattrella, but she later bought it from them. Even after she bought it (the business), she continued to pay rent to Jackpot, as the building was owned by a Mr. Rovelsky, now deceased, in addition to $100 per month payoffs to take care of Raineri. These payoffs were made to Jackpot in Jackpot's office at the Club Carnival.

Nearly every Saturday and Sunday night Alex Raineri and [redacted] were at the Club Carnival with Jackpot and subsequently his wife, [redacted] eating dinner. b6 b7C

Gasbarri noted that she was married to Jackpot from the late 1930's until she left him in 1951, and they

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Investigation on 7/16/80 at Ironwood, Michigan File # MI 194-35-385

by SA [redacted] Date dictated 7/22/80 b6 b7C

were divorced a number of years later, after being separated for a long time. Jackpot then remarried [redacted] Jackpot and Alex Raineri were not friends when she and Jackpot were first married, and she believed they became friends after Jack and Dick Mattrella opened the Club Carnival. This occurred after she left Jackpot, though she felt it was related to the Mattrella-Jackpot Gasbarri partnership because Mattrella had grown up with Alex Raineri, and Jackpot had been somewhat older. Raineri had functioned as attorney for all the dealings in purchase and operation of the Club Carnival, White Way Motel, and other Mattrella-Gasbarri operations. b6 b7C

Gasbarri noted that she did not like making the monthly payoffs, and on occasion argued with Jackpot about them. When asked if she received any tipoff to the impending arrival of state investigative agents, she stated that she did not need tipoffs from Alex Raineri because through her contacts in taverns in the Minocqua area and other locations, she generally knew before everyone else in town that state men were in the area.

She advised that [redacted] when he was a police officer for the City of Hurley before becoming a deputy sheriff in Iron County, his current position, dated a girl named [redacted] who was working as a prostitute in a club which she, Mrs. Gasbarri, was running. [redacted] was single at the time, and his relationship with [redacted] was just going out and drinking and sleeping together. She doubted that any payment was made by [redacted] because he "couldn't pay her on the wages of a Hurley city cop". She believed [redacted] to now be someplace in Milwaukee. [redacted] would now be around [redacted] years old, has a [redacted] now around [redacted] years old, and was once married to a Negro male. She now has a legitimate job and has quit the prostitution business. This occurred in either the late 1960's or early 1970's, when either Leo Negrini or Albert Stella was Chief of Police. During the time Bert Stella was Chief of Police, she never saw him on the street (Silver Street). Leo Negrini once came into the Holiday Club she was running and told her to get rid of her girls. She replied to Negrini, "When you get rid of all the cunts in the first block, I'll get rid of mine," and continued running b6 b7C

operation without any further interference from the Hurley Police Department. She stated she has never made any payoffs or furnished any gifts to the Hurley Police Department or the Iron County Sheriff's Department. She did not believe that [redacted] the District Attorney before Alex Raineri, ever took a payoff. b6 b7C

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/28/80

Bessemer, Michigan, advised that on a Saturday in late June, 1980, he was visited by a private investigator named who stated he was conducting investigation for the Raineri defense. He described as being a white male parted in the middle, sunglasses, wearing casual clothes. came into the residence while was away, asking to talk to and waited for around two hours talking to wife without identifying himself. During this conversation, was aware that the Raineri situation was mentioned. who operates his bookkeeping business out of his home, also had another customer waiting for him in his office, thus there was nowhere other than the residence portion of the home for to wait.

b6
b7C

After arrival, he talked to asking questions and particularly making a lot of statements which felt were intimidating. Among those statements was one stating that Raineri did not have anything to do with the business of the Show Bar. asked to see Show Bar checks and his "books", to which stated he did not have, having turned them over to the Federal Bureau of Investigation (FBI). "began throwing his weight around", at which time finally asked to leave. He described "throwing his weight around" as repeating questions and being somewhat accusative in the way questions were asked. inquired as to how the FBI got to in the first place, to which told to ask the FBI, because he could not answer that question.

b6
b7C

voluntarily furnished handwriting samples at this time as dictated by Special Agent the samples being furnished in writing of left hand, as he stated he is left-handed.

b6
b7C

Investigation on 7/16/80 at Bessemer, Michigan File # MI 194-35-386

by SA Date dictated 7/22/80

b6
b7C

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/29/80

Richard Mattrella, a resident of Newport, Kentucky, was contacted at the residence of [redacted] Hurley, Wisconsin (715-561-4730). Mattrella advised that he had just arrived in Hurley on the morning of this date to find that a message had been left for him by Alex Raineri with Mattrella's daughter, requesting that Mattrella call Raineri when he arrives in town. Mattrella stated that he figured Raineri must want him to be a witness of some sort in Raineri's upcoming trial, but Mattrella does not want to be and knows of nothing that would be of assistance to Raineri. He noted he has been out of the town of Hurley for a number of years and has no personal knowledge relating to Raineri's relationship with [redacted] Before [redacted] left Hurley, she had a conversation with Mattrella in which she told Mattrella a number of things that Raineri had counseled her regarding the White Way Motel and other business in which she and Mattrella were associated. All of this counseling was against Mattrella, and he is angered by it. He thinks that Raineri wants him to testify that Raineri had nothing to do with running the Show Bar, when, in fact, Mattrella does not know this, and has actually heard to the opposite.

b6
b7C

Mattrella, with the interviewing Agent seated next to him, placed a telephone call at 12:38 p. m., July 17, 1980, to the telephone number of Alex Raineri, 561-3873. The telephone was answered by a female, who called Alex Raineri to the phone. Raineri, after ascertaining that the caller was Mattrella, stated, "She got me in trouble with the Feds." Raineri stated that she [redacted] had told the Federal Bureau of Investigation (FBI) about stolen televisions brought to Hurley from Kentucky from Mattrella. Raineri stated, "What I saw here looked like used ones. I couldn't see anybody even stealing them." Mattrella asked Raineri about the whereabouts of [redacted] because he had some papers that needed to be served on her. Raineri stated that he would have his lawyer give to Mattrella [redacted] location and made an appointment for Mattrella to come to the office of Raineri's lawyer at Hurley at 1:45 p. m. the same day, at the office located

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b7C

Investigation on 7/17/80 at Hurley, Wisconsin File # MI 194-35-387

by SA [redacted] Date dictated 7/23/80

b6
b7C

behind the Wiita Insurance Agency. The Raineri-Mattrella conversation concluded at this time.

After the call Mattrella stated that he knows Raineri and that Raineri is not really interested in the television sets at all but was just trying to get close to him. Mattrella inquired whether if he is asked by Raineri to testify in exchange for some remuneration, if he can ask if money is involved and how much is being offered. He stated that he would do this in conversation with Raineri if such a request was made.

Later the same day Mattrella advised that at approximately 1:50 p. m., he met with Alex Raineri and Raineri's lawyer in the lawyer's office behind the Wiita Insurance Agency. Raineri was extremely worried about a guy with a tie walking by, thinking this individual might be an FBI Agent. Mattrella felt that from Raineri's demeanor he was also afraid that Mattrella might be wearing some kind of a tape recorder, as Raineri watched Mattrella closely, as did his attorney. Raineri and his attorney asked Mattrella if [redacted] had threatened Alex in Mattrella's presence, to which he stated she had not, just saying that she would get even with him for all the things Raineri said about her. At the conclusion of the conversation with Raineri and his lawyer, Raineri stated he wanted to again talk with Mattrella, just the two of them in private. He stated that he would call Mattrella regarding this, and Mattrella agreed to meet with Raineri if he so desired.

b6
b7C

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/12/80

[redacted] Bessemer, Michigan, telephonically advised that on Friday, July 25, 1980, in the afternoon, he was working at his bookkeeping business at Chatries Whitehouse, Gile, Wisconsin, when he overheard discussion among bar patrons of the Federal investigation of Alex Raineri. One patron, a white female, age in late 40's or early 50's, around 5'8" tall, black hair, glasses, rough talking, stated that she "wrote all payroll checks" for the Show Bar. She stated that Alex told her that if she is asked, to say that he did not write any such checks. b6 b7C

[redacted] made no comments to the person so speaking. b6 b7C

Investigation on 7/31/80 at Wausau, Wisconsin File # MI 194-35-388

by SA [redacted] Date dictated 8/6/80 b6 b7C

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/21/80

[redacted] Smith, Barney, Upham and Harris, Rhinelander, Wisconsin [redacted] advised he handled an account of Alex and [redacted] this account consisting of only one transaction in 1977, when Alex Raineri purchased 200 shares of stock in Pacific Gas and Electric Company. This Pacific stock was subject of an offering, and pursuant to this [redacted] called Raineri at his private office to inquire if he was interested in the purchase. He knew Raineri, having traveled to the Hurley, Wisconsin - Ironwood, Michigan, area seeking customers and had determined in conversation with Raineri previously that Raineri was a potential investor. Raineri also knew [redacted] family from [redacted] Wisconsin, from a previous day when Raineri was running for public office and campaigning in the [redacted] area. [redacted] has called Raineri both before and since this occasion soliciting business with him with no luck. He knows, however, that Raineri has considerable other financial holdings from his conversations with Raineri.

b6
b7C

[redacted] confirmed that $4,725 was the purchase price of this 200 shares of Pacific Gas and Electric and that Smith, Barney, Upham and Harris banks at Merchants State Bank, Rhinelander, where Raineri's check and payment would be deposited. He stated that Raineri would have the Pacific shares purchased, and the numbers of these shares would be available from the transfer agent of Pacific Gas and Electric. The Raineri account maintained at Smith, Barney, Upham and Harris is a joint account of Alex Raineri with his [redacted] The shares purchased would be in these names.

b6
b7C

Investigation on 8/11/80 at Rhinelander, Wisconsin File # MI 194-35-389

by SA [redacted] Date dictated 8/15/80

b6
b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/25/80

[redacted] Hurley, Wisconsin, advised approximately two to three weeks prior to this conversation, she was visited by a private investigator named [redacted] who stated he was conducting investigation in connection with the case of Alex Raineri. She met [redacted] at the front door, and he kept trying to get her to allow him inside, which she declined. [redacted] stated, "I'm not going to ask questions. I'm going to tell you what's going to happen. Them Feds are going to hurt lots of people in this town." [redacted] also stated that he had been to [redacted] She continued to decline to allow [redacted] entrance and told him that her husband, [redacted] was not at home. b6 b7C

She recently learned from a conversation with a friend that Paul Sturgul, Iron County District Attorney, received a series of legal papers in connection with the Raineri case. Her friend, a woman, told her that Sturgul had invited her to drop by his office to read the papers, which she had done. He also commented that "Morzenti is reading them", referring to Chief Deputy Ronald Morzenti of the Iron County Sheriff's Department. Her husband, [redacted] was told by [redacted] that Sturgul had also invited him to come to his office to read these papers. In local conversation she has been told that Raineri has remarked, [redacted] went and shot his mouth off in Madison. He's going to get his, too. He'll get into trouble for talking." b6 b7C

[redacted] stated that in recent conversation with [redacted] a close friend of Mrs. [redacted] has discussed the Raineri family life and what a poor family man Alex Raineri has been. [redacted] Trolla's Supermarket in Hurley. b6 b7C

Investigation on 8/13/80 at Hurley, Wisconsin File # MI 194-35-390

by SA [redacted] Date dictated 8/19/80 b6 b7C

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- ☐ Teletype
- ☐ Facsimile
- ☐ _____

PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date _____

FM MILWAUKEE (194-35) P

TO DIRECTOR (194-1122) ROUTINE

BT

UNCLAS

ALEX J. RAINERI, CIRCUIT JUDGE, HURLEY, WISCONSIN; HOBBS ACT - OFFICIAL CORRUPTION; ITAR - PROSTITUTION; ITAR - BRIBERY; PERJURY; OOJ. OO: MILWAUKEE.

RE MILWAUKEE TELCAL TO BUREAU, AUGUST 29, 1980.

FOR INFORMATION OF FBIHQ, USA FRANK M. TUERKHEIMER, MADISON, WIS., IN VIEW OF VOLUMINOUS AMOUNT OF MATERIAL EXAMINED BY FBI LABORATORY, ESTENSIVE HANDWRITING IDENTIFICATIONS, PROBABILITY THAT DEFENDANT WILL ATTEMPT TO INTRODUCE CONFLICTING HANDWRITING TESTIMONY, AND NOTORIETY OF CAPTIONED CASE IN WISCONSIN, HAS REQUESTED PRESENCE AT PRE-TRIAL CONFERENCE, SEPTEMBER 8-9, 1980, OF SA [redacted] DOCUMENT EXAMINER, FBI LABORATORY. b6 b7C

UACB, SA [redacted] WILL TRAVEL TO MADISON, WIS., FOR THE

TEB:lrd
(1) [redacted]

b6 b7C

194-35-381

Approved: [redacted] Transmitted 005 0308 Per [redacted]
(Number) (Time)

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980-305-750/5402

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- ☐ Teletype
- ☐ Facsimile
- ☐ _____

PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date _____

PAGE TWO MI 194-35 UNCLAS

ABOVE SEPTEMBER 8-9, 1980, CONFERENCE, BRINGING ALONG ANY EXHIBITS TO BE USED AT TRIAL.

BT

Approved: _____ Transmitted _____ (Number) _____ (Time) Per _____

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980-305-750/5402

#

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

1

Date of transcription 8/21/80

On August 18, 1980, [redacted] provided SA [redacted] a personal check [redacted] dated November 10, 1978, in the amount of [redacted] payable to North Central Airlines, drawn on First National Bank, Ironwood, Michigan, account number [redacted] concerning the personal account of Ritz Bar, Incorporated, 28 Silver Street, Hurley, Wisconsin, signed by [redacted] b6 b7C

[redacted] stated she signed the check, however, [redacted] claims that other than her signature, Raineri filled in the remaining portion of the check b6 b7C

Investigation on 8/18/80 at [redacted] File # Los Angeles, 194-57 194-35-392 b6 b7C

by SA [redacted] Date dictated 8/18/80

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

1

Date of transcription 8/21/80

[redacted] was interviewed at her current place of residence, [redacted] by SA [redacted] concerning allegations of criminal activities concerning Circuit Judge Alex J. Raineri. [redacted] provided the following information: b6 b7C

[redacted] stated she accompanied Judge Raineri to Reno, Nevada, September to October 1978. [redacted] and Raineri initially stayed at the Holiday Inn, Reno, and subsequently moved to three other hotels. According to [redacted] Raineri had hired a couple of individuals to have [redacted] killed. [redacted] left the Reno area fearing for her life for Los Angeles, leaving Raineri in Reno. b6 b7C

Upon arriving in Los Angeles, [redacted] mentioned to [redacted] they planned to go on a hunting trip to Artura (phonetic), Oregon. [redacted] advised her [redacted] that en route to Oregon, [redacted] should stop in and say hello to Raineri in Reno, Nevada. According to [redacted] her [redacted] visited Raineri in Reno before their hunting trip and on their return trip. [redacted] stated she returned to Reno when her [redacted] had stopped by on their return trip. [redacted] stated that her [redacted] telephone number [redacted] b6 b7C

[redacted] was asked if she recalled how much was paid for champagne and what price it was sold for concerning her establishment, Ritz Bar, Hurley, Wisconsin. [redacted] related that the champagne was sold for $35.00 or $55.00 a bottle, however, [redacted] does not recall what was paid for the champagne. b6 b7C

[redacted] recalls buying the champagne from Bertonelli (phonetic) Liquor, Hurley, Wisconsin, and possibly two additional liquor stores. b6 b7C

[redacted] was asked specifically concerning $1000.00 deposited into [redacted] bar account and drawn from Raineri's escrow account, September 29, 1977. [redacted] related that Raineri had given her $1000.00 to cover expenses incurred by the Ritz Bar. b6 b7C

Investigation on 8/18/80 at [redacted] Los Angeles, File # 194-57 194-35-393 b6 b7C

by SA [redacted] Date dictated 8/18/80

FD-36 (Rev. 7-27-76)

FBI

TRANSMIT VIA:	PRECEDENCE:	CLASSIFICATION:
☐ Teletype	☐ Immediate	☐ TOP SECRET
☐ Facsimile	☐ Priority	☐ SECRET
XX Airtel	☐ Routine	☐ CONFIDENTIAL
		☐ E F T O
		☐ CLEAR

Date 8/25/80

TO: DIRECTOR, FBI (194-1122)
(ATTN: FBI LABORATORY; DOCUMENT SECTION)

ENCLOSE

FROM: SAC, LOS ANGELES (194-57) (RUC) (22)

RE: ALEX J. RAINERI,
Circuit Judge,
Hurley, Wisconsin,
HOBBS ACT - OFFICIAL CORRUPTION;
ITAR - PROSTITUTION;
ITAR - BRIBERY;
PERJURY; OOJ
OO: Milwaukee

Enclosed for the Laboratory is one cancelled check dated 11/10/78, for $115.00, check number [redacted] payable to North Central Airlines, drawn on First National Bank, Ironwood, Michigan, account number [redacted] concerning the personal account of Ritz Bar, Incorporated, 28 Silver Street, Hurley, Wisconsin, signed by [redacted] b6 b7C

Enclosed for Milwaukee are executed trial subpoenas for [redacted] telephone number [redacted] and [redacted] served on 8/7/80 and 8/18/80, respectively. Also enclosed is one original and two copies of two separate FD-302s concerning [redacted] b6 b7C

REQUEST OF BUREAU

(Y)

3 - Bureau (Enc. 1)
(2) - Milwaukee (194-35) (Enc. 8) [redacted]
1 - Los Angeles

SEO/cks
(6)

194-35394

SEARCHED [redacted] INDEXED [redacted]
SERIALIZED [redacted] FILED [redacted] b6 b7C

SEP 2 19[redacted]

FBI-MILWAUKEE

Approved: _____ Transmitted _____ (Number) _____ Per [redacted]

w/encl

The Laboratory is requested to compare handwriting on above mentioned check with known handwriting samples of ALEX J. RAINERI, previously furnished by the Milwaukee Division. It is noted that [redacted] did sign the check, however, [redacted] claims that RAINERI filled in the remaining portion of the check. b6 b7C

Upon completion of the handwriting examination, the Laboratory is requested to forward check and results of examination to Milwaukee.

7-1b

REPORT of the

FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

To: SAC, Los Angeles (194-57) (22)

September 5, 1980

FBI FILE NO. 194-1122

LAB. NO. 00902051 D UY

Re: ALEX J. RAINERI,
Circuit Judge,
Hurley, Wisconsin,
HOBBS ACT - OFFICIAL CORRUPTION;
ITAR - PROSTITUTION;
ITAR - BRIBERY;
PERJURY; OOJ

Specimens received September 2, 1980

SPECIMEN	CHECK#	AMOUNT	DATE	PAYABLE TO	SIGNED	BANK
Q477	[redacted]	$115.00	11/10/78	North Central Airlines	[redacted]	First National Bank of Ironwood, Michigan

b6
b7C

Result of examination:

Handwriting characteristics were observed which would not permit the elimination of ALEX J. RAINERI, the writer of the previously submitted specimens K1, K3, and K4, as the possible writer of the questioned entries appearing on lines two and three of specimen Q477.

The submitted evidence was photographed and will be returned with the results of the requested latent fingerprint examination.

FBI/DOJ

Laboratory Transmittal Form
7-72

FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

To: SAC, Los Angeles (194-57) (22) September 5, 1980

From: Director, FBI FBI FILE NO. 194-1122

LAB. NO. 00902051 D UY

Re: ALEX J. RAINERI,
Circuit Judge,
Hurley, Wisconsin,
HOBBS ACT - OFFICIAL CORRUPTION;
ITAR - PROSTITUTION;
ITAR - BRIBERY;
PERJURY; OOJ

OO: Milwaukee

Examination requested by: Los Angeles

Reference: Airtel dated August 25, 1980

Examination requested: Document - Fingerprint

Remarks:

Enclosures (2) (2 Lab report)

(2)- Milwaukee (194-35) Enclosures (2) (2 Lab report)

DO NOT INCLUDE ADMINISTRATIVE PAGE (S) INFORMATION IN INVESTIGATIVE REPORT

ADMINISTRATIVE PAGE

SEARCHED INDEXED
SERIALIZED FILED
SEP - 8 1980
FBI

194-35-396

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b7C
FBI/DOJ

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

1

Date of transcription 7/21/80

[redacted] also known as [redacted] [redacted] Milwaukee, Wisconsin, telephone [redacted] advised as follows: b6 b7C

For approximately ten years in the past, until about one year ago, she was involved in prostitution activities in a variety of locations. She is no longer involved in prostitution, has a regular job, and has no desire to be further involved in prostitution. In 1971 - 1972, she worked in the French Casino and Club 13 at Hurley, Wisconsin; these establishments being run by [redacted] At that time, several individuals, including herself, were arrested, and she was placed on probation. She went back to Hurley, Wisconsin, to work in prostitution in 1978 when [redacted] took over operation of the Show Bar while owner, [redacted] was out of town. She and a negro female associated with [redacted] were [redacted] very first girls to work in the Show Bar. They went to Hurley together and only worked for several days, leaving because business was very slow. She felt bad about leaving [redacted] without anyone at that time. About two or three weeks later, still feeling bad about this, she called [redacted] and returned to Hurley to visit with [redacted] and to work at the Show Bar. On this occasion, in October, 1978, she worked at the Show Bar for about one to two weeks. At this time, [redacted] was running the Show Bar, working behind the bar. [redacted] the owner, was coming in regularly and was apparently aware of prostitution going on, as on one occasion, [redacted] ran all around town telling everyone she had nothing to do with the prostitution in the Show Bar; it was all [redacted] doing. [redacted] examined a photograph of Alex Raineri and identified this individual as being a person whom she has seen in the Show Bar wearing a suit and talking with another guy at the bar. This occurred during the period of time she was employed at the Show Bar. Her employment consisted of being a prostitute, as she was not much of a dancer and told [redacted] so. During the one to two weeks she was so employed, business was slow, and she did not have many dates; in total about 20 to 30 dates. There b6 b7C

Investigation on 7/10/80 at Milwaukee, Wisconsin File # MI 194-35-397

by SA [redacted] SA Date dictated 7/17/80 b6 b7C

were three or four girls present, similarly working at the same time, so the total number of prostitution engagements at the Show Bar during this time (one to two weeks) would be approximately three or four times the number she entertained, though she noted that she probably made the most money of any of the girls. The going rate for prostitution was $50 minimum, but could be any figure above that depending upon what the customer was willing to pay. Prostitution engagements took place upstairs above the Show Bar during working hours, and the proceeds were split on a 50/50 basis between the prostitute and the Show Bar.

One of the prostitutes working at the Show Bar at this time was a [redacted] (Last Name Unknown - LNU), affiliated with a Milwaukee [redacted] is believed now to have broken up with [redacted] and is believed to be somewhere in Texas. [redacted] had a cocaine habit at this time and was shooting cocaine while employed at the Show Bar. Just before [redacted] arrival at the Show Bar, [redacted] had been involved with an elderly local man named [redacted] and the local police had come and taken a television back that [redacted] had given her. [redacted] recalled [redacted] coming around the Show Bar and standing outside calling for [redacted] resided upstairs above the Show Bar and entertained her prostitution customers there. [redacted] became very close to [redacted] and [redacted] exchanged telephone numbers. During the last week that [redacted] was at the Show Bar, those working in prostitution there were herself, [redacted] and a white female named [redacted] also known as [redacted] who is from [redacted] Illinois and is now out of the prostitution business and living in [redacted] at telephone [redacted] They left when [redacted] stated that they had to go, because he was afraid some of the Show Bar's customers had been cops and was worried about having trouble with the law. She and [redacted] went home together to Milwaukee on the Greyhound Bus. Later, [redacted] went back up to Hurley to again work in the Show Bar.

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In the 1971 - 1972 era, when she had worked at Hurley as a prostitute, others working with her there were Marie Sukop, also known as "Sue" (now deceased); [redacted] Carole Popora (now deceased); [redacted] LNU, a light-skinned black girl; [redacted] LNU, a big girl, now about [redacted] years old; [redacted] LNU, a white female who contracted hepatitus and whom she has never heard from again; [redacted] LNU, a negro female who went with [redacted] of the Cool Inn; Theresa Harris (now deceased); and [redacted] described above. She recalled one particular problem at

b6
b7C

Hurley during that era when Marie Sukop was required to have a prostitution engagement with a local cop who required her sexual favors very cheap or free, spent a great deal of time with her, and was extremely mean, pinching and torchering her extensively during their sexual activity. She recalled that this emotionally upset Marie so greatly that she eventually quit working at the French Casino when again requested to entertain this police officer. She believes that this officer is still associated with law enforcement in Hurley or Iron County, Wisconsin.

[redacted] stated that she was reluctant to be a witness in court at this time because of her change in lifestyle and the possibility that some of her co-workers might find out about her past. She stated, however, that she would give serious consideration to this and when later contacted would advise if she would testify.

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 7/21/80

[redacted] Milwaukee, Wisconsin, telephone [redacted] advised as follows: b6 b7C

In late 1978, she went to Hurley, Wisconsin, to dance at the Show Bar, after receiving a call from dancer [redacted] and stated that dancers were needed at the Show Bar. She recalled the first night she arrived, because she went to the Show Bar and was upstairs with [redacted] all of whom were staying upstairs above the Show Bar and dancing at the Show Bar. [redacted] and [redacted] left to go to the restaurant, the Big Boy at Ironwood, Michigan. [redacted] stayed behind. Later, [redacted] returned with a man she had met at the Big Boy, a big, old, heavy-set man. [redacted] and this man were together in a room for awhile, after which the man went down the hallway to the bathroom. After the man left, [redacted] came into the room where the other girls were talking and told them that she had just taken $500 from the man. Shortly afterward the man was back at the Show Bar, stating that he did not want to involve the police, but he wanted to get his money back. The next day, [redacted] owner of the Show Bar, some police officers, and the man in question came upstairs above the Show Bar where the man pointed out [redacted] His money apparently was eventually returned. [redacted] noted that all of this occurred before she even began to dance at the Show Bar, this being her first day in town. She then went to work dancing at the Show Bar, and after hours engaging in prostitution. Her prostitution dates took place after hours, next door to the Show Bar at the White Way Motel. She danced and engaged in prostitution at Hurley in late 1978 and early 1979. b6 b7C

She recalls when she first arrived, seeing a wood box with a padlock and a slot like a mailbox, located in the corner of the dancers' dressing room at the rear of the Show Bar. She was told by a number of girls, including [redacted] and a [redacted] (Last Name Unknown), that the box had been used for receipt of the house's cut of prostitution by the dancers. b6 b7C

Investigation on 7/10/80 at Milwaukee, Wisconsin File # MI 194-35-398

by SA [redacted] SA [redacted] Date dictated 7/17/80 b6 b7C

[redacted] stated that [redacted] wanted a percent of the trick money from the girls who were staying upstairs and engaging in prostitution there. [redacted] who was present in Hurley for quite awhile, did take prostitution dates upstairs. b6 b7C

Just before Christmas, 1978, she, [redacted] and [redacted] were together in Ironwood, Michigan, when [redacted] was involved in the theft of several diamond rings there. [redacted] not wanting any trouble, immediately left town. [redacted] were arrested and taken to jail in Michigan; [redacted] being in jail for approximately one day until they realized that she was not involved with [redacted] in the theft. While in jail, [redacted] made telephone calls to [redacted] in an effort to raise her bond. She overheard [redacted] on the telephone with [redacted] threatening [redacted] that if her bond was not raised, she would tell authorities about the box in the back room and the prostitution taking place at the Show Bar. b6 b7C

On the next day, after [redacted] was released from jail, she overheard [redacted] telling Albert Stella, the custodian of the Show Bar, that they have to remove the box. She did not observe the box being removed, but that evening when she went to dance, it was gone. b6 b7C

[redacted] reiterated that her prostitution dates never took place upstairs above the Show Bar; all taking place at the White Way Motel after hours and none requiring her to contribute a portion of the take to the Show Bar. b6 b7C

[redacted] advised that [redacted] who danced with her at the Show Bar, is believed to reside with her mother at [redacted] Milwaukee. She has a [redacted] a tall and thin black female whom she closely resembles. [redacted] is really named [redacted] but uses the name [redacted] which is her mother's maiden name. She believes [redacted] now to be in Dallas, Texas, where she is associated with an ex-bail bondsman, named [redacted] (Last Name Unknown), who is a pimp and operates five to six girls in one house in a residential neighborhood of Dallas. b6 b7C

[redacted] identified a photograph of [redacted] as being identical with the individual known to her as [redacted] (Last Name Unknown), who worked as a dancer and prostitute at the Show Bar, Hurley, Wisconsin, and who was for a number of years closely associated with Milwaukee pimp [redacted] b6 b7C

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- ☐ Teletype
- ☐ Facsimile
- XX ☒ AIRTEL

PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date 9/18/80

TO: SAC, MILWAUKEE (194-35) (P)

FROM: ADIC, NEW YORK (194-159B) (RUC) (M-9)

SUBJECT: ALEX J. RAINERI,
CIRCUIT JUDGE,
HURLEY, WISCONSIN;
HOBBS ACT-OFFICIAL CORRUPTION;
ITAR-PROSTITUTION:
ITAR-BRIBERY;
PERJURY;
OOJ
(OO:MI)

ReMIairtel to the director, dated 7/18/80, and NYtelcal to SA [redacted] Wausau RA, Milwaukee, Wisconsin.

On 8/28/80, [redacted] telephone number [redacted] was contacted concerning ALEX RAINERI [redacted] advised she would not answer any questions at this time concerning the above captoined matter. [redacted] Wausau, Wisconsin, telephone number [redacted] her lawyer, should be contacted concerning this interview. [redacted] advised she would cooperate with the FBI if [redacted] advised her to do so. b6 b7C

Till receipt of Federal Grand Jury subpoena for [redacted] this case is being placed in an RUC status in the NYO. b6 b7C

2-Milwaukee
1-New York

JTD:mc
(4)

194-35-399

[redacted] b6 b7C

Approved: [redacted] Transmitted _____ (Number) Per [redacted]

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980-305-750/5402

x Airtel

9/23/80

TO: DIRECTOR, FBI (194-1122)
(ATTN: FBI LAB DOCUMENT SECTION EXAMINER [redacted]) b6 b7C
FROM: SAC, MILWAUKEE (194-35) (P)

SUBJECT: ALEX J. RAINERI
CIRCUIT JUDGE,
HURLEY, WISCONSIN;
HOBBS ACT - OC;
ITAR - PROSTITUTION;
ITAR - BRIBERY;
PERJURY; OOJ

OO: MILWAUKEE

Re conference of USA, Madison, Wisconsin, and Lab Examiner [redacted] 9/8-9/80.

Enclosed for the FBI Laboratory are the following original documents:

Original 11/3/78 document of Cloverland Homes vs. [redacted] signature (questioned document); b6 b7C

Three pages of original typewritter documents re [redacted] divorce bdieved typed on office typewriter of ALEX J. RANIERI (known);

Sample of above questioned document typed on Facit typewriter, serial number [redacted] located in office of Secretary to Circuit Judge, Iron County Courthouse, Hurley, Wisconsin (known).

3-Bureau (Enc. 3) (RM)
2-Milwaukee
[redacted]
(5)

[redacted] b6 b7C

SEARCHED INDEXED
SERIALIZED [redacted] FILED

Also to be submitted separately later is a known document submitted by RANIERI to State Judicial Commission which should be considered as a known document typed on RANIERI's typewriter.

It has been determined that RANIERI has often done his own typing of legal forms on his private office typewriter. If samples from this typewriter can be obtained, they will be submitted at a later date.

REQUEST OF THE LAB

The FBI Lab is requested to conduct typewriting comparisons to determine if the above and items submitted in the future have been typed on the same typewriter.

1-336 (Rev. 10-26-79)

FEDERAL BUREAU OF INVESTIGATION

Washington, D. C. 20537

REPORT

of the

LATENT FINGERPRINT SECTION
IDENTIFICATION DIVISION

YOUR FILE NO. 194-35
FBI FILE NO. 194-1122
LATENT CASE NO. B-84261

September 22, 1980

TO: SAC, Milwaukee

RE: ALEX J. RAINERI;
CIRCUIT JUDGE, HURLEY, WISCONSIN;
HOBBS ACT - OFFICIAL CORRUPTION
ITAR - PROSTITUTION
ITAR - BRIBERY
PERJURY; OOJ

REFERENCE: Los Angeles airtel 8-25-80
EXAMINATION REQUESTED BY: Los Angeles
SPECIMENS: Q477, check

The check is further described in a separate Laboratory report.

One latent fingerprint of value was developed on the check.

The latent fingerprint is not a fingerprint of Alex Joseph Raineri, born 9-17-18 in Hurley, Wisconsin, U. S. Army service #36833018; [redacted] born [redacted] U. S. Armed Forces service [redacted] or SA [redacted]

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The specimen is enclosed to Milwaukee as requested.

Enc.

2 - Los Angeles (194-57) (22)

194-35-401

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/30/80

[redacted] Clerk of the Circuit Court, Iron County Courthouse, Hurley, Wisconsin, furnished a xerox copy of his file in connection with State of Wisconsin, Iron County Court, small claim number [redacted] Cloverland Home Industries, Inc. vs. [redacted] doing business as the Show Bar. [redacted] in addition furnished the original November 3, 1978, document from that file which was signed by [redacted] b6 b7C

[redacted] further furnished three typewritten pages from the file of the divorce of [redacted] and [redacted] file number [redacted] in which Alex Raineri was the attorney. These documents were believed by [redacted] to have been typed on Raineri's office typewriter just prior to his becoming Circuit Judge. [redacted] advised that Raineri did a lot of his own typing in legal matters on the typewriter located in his office on Silver Street in the building which is now occupied by Wiita Insurance Company. He believed Raineri still maintains a small office in the rear of that building and suggested that the typewriter in question may be located in that office or in Raineri's home. b6 b7C

Investigation on 9/18/80 at Hurley, Wisconsin File # MI 194B-35-403

by SA [redacted] Date dictated 9/24/80 b6 b7C

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/30/80

[redacted] Iron County Courthouse, Hurley, Wisconsin, advised that she was in this position in November, 1978. After checking her records, [redacted] advised that she could find no court notes regarding a case involving Cloverland Homes, [redacted] or the Show Bar. She stated that she does not keep an index of small claims court, traffic court or similar less significant matters. [redacted] examined a court document relating to a suit of Cloverland Homes vs. [redacted] doing business as the Show Bar, this document dated November 3, 1978, and stated that she has never seen this or an original of the same document.

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[redacted] advised that she has never been asked to do any outside typing for Raineri, other than in connection with state business. She stated there has never been a typewriter located in Raineri's chambers and stated that her office currently contains a Facit model 1650 typewriter, serial number 739-2532. She could not locate when this typewriter was purchased but stated that it came from Wisconsin Typewriter and Office Supply Company, Superior, Wisconsin. The prior typewriter in her office was a manual typewriter which is now located in the office of [redacted] Clerk of the Circuit Court.

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[redacted] advised that she obtains onionskin paper and plain paper from the xerox room in the Iron County Courthouse. This room is located in the office of the Register of Deeds. She checked both her desk and the desk in the judge's chambers and found no bond paper.

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[redacted] furnished a copy of the November 3, 1978, document made by typing a sample of this document on the Facit typewriter in her office.

Investigation on 9/18/80 at Hurley, Wisconsin File # MI 194B-35-404

by SA [redacted] Date dictated 9/24/80

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FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/30/80

[redacted] Hurley, Wisconsin, advised as follows:

He has known Alex Raineri for years, Raineri being his friend and lawyer. Raineri handled his divorce 20 years ago and also handled some land purchase work for [redacted] Raineri has visited [redacted] at his home accompanied by [redacted] characterized these visits as just visiting, not for the purpose of legal work. b6 b7C

Investigation on 9/18/80 at Hurley, Wisconsin File # MI 194B-35 -405

by SA [redacted] Date dictated 9/24/80 b6 b7C

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/26/80

[redacted] Ironwood, Michigan [redacted] advised she was employed at the Gogebic National Bank for one and one half years, beginning in January, 1978, and quitting in June, 1979. During this entire time, she was teller number [redacted] working almost exclusively at the [redacted] She recalled Alex Raineri, who had a number of different accounts at Gogebic National Bank, as Raineri was a regular customer of the [redacted] Raineri regularly deposited a lot of cash, often thousands of dollars, though she could not recall the specifics of the cash in his deposits. She also recalled that Raineri came in to cash treasury coupons, this being done quite often. For these coupons he would be given cash, usually in varied amounts but in the hundreds of dollars.

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Raineri, when doing business with the bank, was always alone. She has no knowledge of his [redacted] and has never, to her knowledge, waited on [redacted] in connection with bank business.

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Investigation on 8/14/80 at Ironwood, Michigan File # MI 194B-35-206

by S [redacted] Date dictated 8/20/80

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FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/26/80

[redacted] Ironwood, Michigan [redacted] advised she was Teller number [redacted] at the main bank of Gogebic National Bank, Ironwood, for approximately three years in 1977, 1978 and 1979. From this position she knows Alex Raineri, a customer of Gogebic National Bank, as she often waited on Raineri because he mostly came to the drive-in window of the main bank to do his business. b6 b7C

She recalled Raineri making a few deposits, usually with large amounts of cash. She specifically recalled that when Raineri cashed dividend, interest and investment checks or cashed coupons from treasury bills, he always requested to be paid in large bills. Recently, approximately two to three weeks ago, he came into the drive-up facility in which she now works, cashed in coupons from treasury bills and asked for large bills. The amounts involved in these transactions were usually in the area of $1,000 to $3,000, and Raineri always wanted cash, as much in large bills ($50 or $100 bills) as possible.

[redacted] advised that she does not know Alex Raineri's [redacted] and to the best of her knowledge has never waited on [redacted] in connection with bank business. b6 b7C

Investigation on 8/14/80 at Ironwood, Michigan File # MT 194B-35-407

by SA [redacted] Date dictated 8/20/80 b6 b7C

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/9/80

[redacted] to Ronald Keberle, Chief Judge, 9th Judicial Administrative District of Wisconsin, Wausau, Wisconsin (715-842-0471, [redacted] b6 b7C advised as follows regarding Alex J. Raineri, Circuit Judge, Hurley, Wisconsin:

He became aware of the Federal Grand Jury indictment of Judge Raineri in June, 1980, on the day the incitment was returned. On June 17, 1980, or June 18, 1980, believed to be the prior date, [redacted] traveled to Hurley on a separate and previously planned trip in connection with court business. On that day at that location, he was in the Register of Probate's Office in the Iron County Courthouse, talking to the Register in Probate, [redacted] when Raineri came into the office shared by [redacted] and Raineri's secretary, apparently for the purpose of picking up a newspaper. At that time Raineri of his own volition and institution, talked to [redacted] regarding his situation. b6 b7C

[redacted] initially expressed concern that Raineri had been suspended from his position as Circuit Judge without pay; other judges in the circuit had expressed to [redacted] that they were upset with this decision and with Raineri's loss of income. Raineri was apparently not concerned in the least about the money, stating in reply, "That's no big deal." b6 b7C

Raineri then started talking about the charges in the indictment, stating that they were no problem and were groundless. He talked about [redacted] and about a check, which was apparently involved in some way in the charge. Raineri stated that he had been the attorney for the people [redacted] before he took the bench (became judge) and that obviously being their attorney, he had some involvement with their business, but he stated he had no involvement with the finances of the business. He stated that just because he was their attorney does not mean he was involved in any way in their business activities. He did not bring up any activity after he became judge or during the period he was judge in 1978 or 1979. b6 b7C

Investigation on 8/29/80 at Wausau, Wisconsin File # MI 194B-35 - 408

by SA [redacted] Date dictated 9/3/80 b6 b7C

Raineri talked about the checks and evidence, either handwriting or fingerprints, linking him to the checks, and rambled quite a bit but stated, "I didn't sign it," or possibly, "I didn't write it," the exact wording not being certain to [redacted] Raineri did state that he may have touched the check or checks in question. He continued on about this, "Sure, I might have picked up a check at some time," perhaps because the bookkeeper was in his office, and they were discussing the check, Raineri from the point of view as the attorney for the business. Raineri's overall explanation for any involvement with the [redacted] or the Show Bar business was that his involvement was as attorney for the business, not personally. b6 b7C

[redacted] does not specifically recall Raineri mentioning the names Show Bar, [redacted] etc. but has learned these names as being involved in the activity in connection with the indictment. Raineri followed the above comments with a quick explanation of the charges against him in the Federal Grand Jury indictment of June 6, 1980, apologized to [redacted] for the problems he was causing in the administration of the courts and stated that he would "get off". All of the above explanations were at Raineri's initiation. b6 b7C

[redacted] stated that he does not think Judge Keberle has had much discussion at all with Raineri since the indictment. [redacted] knows that on the Saturday, June 7, 1980, the day after Raineri's indictment, Raineri was in the law offices of Attorney [redacted] Wisconsin, as [redacted] on that date called [redacted] and asked about the charges, Raineri's future and the suspension. [redacted] could make very little comment about the suspension because the order of suspension was sent out by the state courts' administrative office of the State Supreme Court in Madison, Wisconsin. b6 b7C

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/30/80

Ronald Morzenti, Chief Deputy Sheriff, Iron County Sheriff's Office, Hurley, Wisconsin, located and furnished Iron County Sheriff's Department arrest record, number [redacted] relating to [redacted] also known as [redacted]

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Morzenti also furnished Sheriff's Department complaint number [redacted] dated December 27, 1978, from complainant [redacted] relating to trouble being caused by [redacted]

Investigation on 9/18/80 at Hurley, Wisconsin File # MI 194B-35-409

by SA [redacted] Date dictated 9/24/80

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On 10/10/80 [redacted] advised that [redacted] was employed as a dancer-hostess in Hurley Wisc. at approximately the same time [redacted] was dancing there.

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Source advised [redacted] is from Granite city Ill and was residing in Chicago until recently. Source stated [redacted] does not know [redacted] current whereabouts but will attempt to locate her.

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b7D

194-35-410

[redacted]

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b7C

OM 194B-27

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The following investigation was conducted at [redacted] by Special Agent (SA) [redacted]

On September 23, 1980, [redacted] telephone [redacted] was contacted concerning the whereabouts of female dancer [redacted] advised that he is [redacted] fiance, and expects to marry her in the near future. He stated that [redacted] is currently on the road dancing and he does not know her exact location. [redacted] stated that [redacted] will be returning to [redacted] to dance at Chris' Bar, on October 1, 1980. [redacted] advised that if his wife contacted him, he would inform her of the Federal Bureau of Investigation's contact and ensure that she attempted to contact the Federal Bureau of Investigation (FBI) in case she had any change of plans.

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199-35-411

OM 194B-27

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The following investigation was performed at [redacted] by Special Agent (SA) [redacted]

On October 2, 1980, [redacted] (real name of [redacted] telephone [redacted] stated that she had worked at the Show Bar in Hurley, Wisconsin, for only one night. She stated that she refused to work any further because they wanted her to work past 1:00 a.m., and she believes in never working past that hour. She stated that while she was at the Show Bar for that one night, she never met and has never heard of Alex J. Raineri.

[redacted] stated that there were [redacted] looking women who seemed to be in charge of the bar, but she did not know their names. She advised that Robin Hood Enterprises, who booked her into the bar, was contacted by her when she decided not to work at the Show Bar any longer than one night.

She stated that she never signed any contract and that all arrangements were made through Robin Hood. She stated that she no longer works for Robin Hood Enterprises.

[redacted] advised that she did not like the atmosphere in the bar, because the [redacted] looking woman, who seemed to run the bar, wanted her to push drinks. She also heard from a customer that there was a room upstairs in the bar that could be used by the dancers for the purposes of prostitution.

[redacted] stated that during the night that she worked at the bar that she was the only dancer.

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194-35-412

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- ☐ Teletype
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PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date 10/7/80

TO: SAC, MILWAUKEE (194B-35)

FROM: SAC, OMAHA (194B-27) (RUC)

SUBJECT: ALEX J. RAINERI
Circuit Judge,
Hurley, Wisconsin
HOBBS ACT - CORRUPTION OF
PUBLIC OFFICIALS; ITAR - PROSTITUTION
OO: MI

Re Milwaukee airtel to Omaha, dated 4/29/80.

Enclosed for Milwaukee are the original and one copy each of two investigative inserts reflecting investigation conducted at [redacted] b6 b7C

This matter is considered RUC.

(2) - Milwaukee (Enc. 4 [redacted]
1 - Omaha
[redacted]
(3)

194-35-413

SEARCHED [redacted] INDEXED
SERIALIZED [redacted] FILED
OCT 1 4 19[illegible]
FBI MILWAUK[illegible]

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Approved: [redacted] Transmitted _____ (Number) _____ (Time) Per _____

7-1b

REPORT of the

FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

To: SAC, Milwaukee (194-35)

October 16, 1980

FBI FILE NO. 194-1122

LAB. NO. 00926036 D UY

Re: ALEX J. RAINERI
CIRCUIT JUDGE,
HURLEY, WISCONSIN;
HOBBS ACT - OC;
ITAR - PROSTITUTION;
ITAR - BRIBERY;
PERJURY; OOJ

Specimens received September 26, 1980

Q478 One-page typewritten document of Cloverdale Homes Ind. Inc., Plaintiff, vs. [redacted] dated 11/3/78

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K5 Two-page divorce Judgment, file [redacted] and State of Wisconsin summons bearing known typewriting

K6 One sheet of paper bearing typewriting samples of a Facit typewriter, SN 739-2532

Result of examination:

The questioned typing appearing on specimen Q478 has the same horizontal spacing of 10 characters per inch and type face style as the known typing appearing on specimen K5, indicating the same type source may have been used to prepare both specimens. A definite determination could not be reached in the absence of individual type face defects in the specimens available for comparison purposes.

The type style represented on specimen K6 is different from the questioned typing appearing on specimen Q478. These specimens were not produced by a common type source.

The submitted specimens were photographed and are returned herewith.

FBI/DOJ

194-35-414

atory Transmittal Form

FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

To: SAC, Milwaukee (194-35) October 16, 1980

From: Director, FBI
ALEX J. RAINERI
CIRCUIT JUDGE,
HURLEY, WISCONSIN;

FBI FILE NO. 194-1122

LAB. NO. 00926036 D UY

Re: HOBBS ACT - OC;
ITAR - PROSTITUTION;
ITAR - BRIBERY;
PERJURY; OOJ

OO: Milwaukee

Examination requested by: Milwaukee

Reference: Airtel dated September 23, 1980

Examination requested: Document

Remarks:

Enclosures (5) (2 Lab report, Q478, K5 - K6)

DO NOT INCLUDE ADMINISTRATIVE PAGE (S) INFORMATION IN INVESTIGATIVE REPORT

194-35-415

ADMINISTRATIVE PAGE

SEARCHED INDEXED
SERIALIZED FILED
OCT 1 1980
MILWAUKEE
FBI/DOJ

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FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:	PRECEDENCE:	CLASSIFICATION:
XX ☐ Teletype	☐ Immediate	☐ TOP SECRET
☐ Facsimile	☐ Priority	☐ SECRET
☐ _____	XX Routine	☐ CONFIDENTIAL
		☐ UNCLAS E F T O
		XX UNCLAS

Date 10/17/80

FM MILWAUKEE (194B-35) P

TO DIRECTOR (194B-1122) ROUTINE 021 2245

NEW YORK ROUTINE 002 0242

LOS ANGELES ROUTINE 005 0341

BT

UNCLAS

ALEX J. RAINERI, CIRCUIT JUDGE, HURLEY, WISCONSIN; HOBBS ACT - OFFICIAL CORRUPTION; ITAR-PROSTITUTION; ITAR-BRIBERY; PERJURY; OOJ; OO: MILWAUKEE.

ON OCT. 17, 1980, USA FRANK M. TUERKHEIMER, MADISON, ADVISED FIRM TRIAL DATE OF NOV. 24, 1980, HAS BEEN SET IN THIS MATTER. MANY WITNESSES PREVIOUSLY SUBPOENAED WOULD BE SEPARATELY NOTIFIED OF TRIAL DATE AND NEW SUBPOENAES ISSUED OR OLD SUBPOENAES EXTENDED. DEVELOPED AS WITNESSES SINCE ORIGINAL TRIAL DATE IS SUBJECT'S [redacted] WHO WAS LOCATED BY [redacted] IN VIEW OF IMPORTANCE OF [redacted] AND AS SHE WILL BE A HOSTILE WITNESS, USA REQUESTED SUBPOENA SERVICE BY BUREAU AGENTS. TRIAL SUBPOENA BEING FORWARDED DIRECTLY TO NEW YORK OFFICE,

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(1) [redacted]

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Approved: [redacted] Transmitted [redacted] Per [redacted]

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980-305-750/5402

194-35-416

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
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PRECEDENCE:
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- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date _____

AGE TWO MI 194B-35 UNCLAS

ATTN: SA [redacted] FOR SERVICE TO [redacted]

BUREAU REQUESTED TO ADVISE WITNESS [redacted] DOCUMENTS EXAMINER, FBI LAB, AND [redacted] LATENT FINGERPRINT SECTION, IDENT DIVISION, OF NEW TRIAL DATE. AS TRIAL IS EXPECTED TO BE LENGTHY, EXACT DATES FOR APPEARANCE OF [redacted] WILL BE FURNISHED AT LATER DATE. b6 b7C

ONE ESSENTIAL WITNESS, [redacted] IS CURRENTLY EMPLOYED BY SAPPCO, P.O. BOX 10667, RIYADH, SAUDI ARABIA. [redacted] IS AWARE OF TRIAL; USA IS IMMEDIATELY MAILING SUBPOENA TO [redacted] BUREAU REQUESTED TO NOTIFY LEGAT COVERING SAUDI ARABIA OF [redacted] WITNESS SITUATION IN EVENT PROBLEMS OCCUR IN HIS RETURN SO LEGAT CAN FURNISH ANY ASSISTANCE POSSIBLE. b6 b7C

LOS ANGELES BEING NOTIFIED AS KEY WITNESS, [redacted] RESIDES AT [redacted] EFFORTS BEING MADE BY MILWAUKEE TO IMMEDIATELY NOTIFY [redacted] BY TELEPHONE OF NEW TRIAL DTE. b6 b7C

BT

Approved: _____ Transmitted _____ (Number) (Time) Per _____

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980-305-750/5402

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- ☐ Teletype
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- ☒ Airtel

PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date October 14, 1980

TO: DIRECTOR, FBI (194-359)
ATTENTION: WHITE COLLAR CRIMES SECTION
PUBLIC CORRUPTION UNIT
ROOM 5131
FBIHQ

FROM: SAC, MILWAUKEE (194-18)

SUBJECT: CORRUPTION OF PUBLIC OFFICIALS
QUARTERLY SURVEY

Re Milwaukee airtel to Bureau dated 7/16/80.

Enclosed for the Bureau are three copies each of four summary sheets setting forth data concerning Corruption of Public Officials cases being worked in the Milwaukee Division.

3 - BUREAU (194-359) (Encls. 12) (AM) (RM)
5 - MILWAUKEE
(1 - 194-18)
(1 - 194-B-11)
(1 - 194-B-30)
(1 - 194-B-34)
(1 - 194-B-35)

(8)

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SEARCHED INDEXED
SERIALIZED FILED

Approved: Transmitted (Number) (Time) Per

194-35-4/17

PUBLIC CORRUPTION SURVEY

TITLE OF CASE

ALEX J. RAINERI
CIRCUIT JUDGE
HURLEY, WISCONSIN;
HOBBS ACT - CORRUPTION OF PUBLIC OFFICIALS

LEVEL OF GOVERNMENT

(CHECK ONE)

FEDERAL _____

STATE XXX

COUNTY _____

CITY _____

TERRITORY ____

FIELD FILE # MI 194-B-35 _____ BUREAU FILE # 194-B-1122 ____
(Include alpha character)

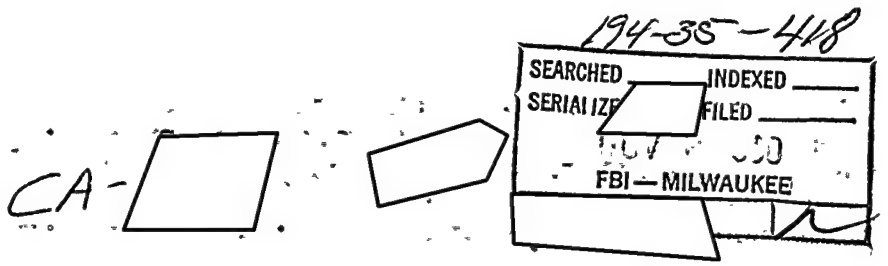
DATE CASE OPENED November 6, 1979

IDENTIFICATION OF OFFICIALS AND POSITIONS HELD

Alex J. Raineri
Circuit Judge
Hurley, Wisconsin

STATUS OF PROSECUTION **Provide a brief statement as to the progress of prosecution to date. Include indictments, convictions, sentences, recoveries, and potential economic loss prevented.**

Judge Raineri indicted June 6, 1980, by Federal Grand Jury at Madison, Wisconsin, with trial scheduled for August 29, 1980, and then postponed. No new trial date scheduled thus far.


194-38-418
SEARCHED
INDEXED
SERIALIZED
FILED
FBI — MILWAUKEE

CA-

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b7C

Memorandum

To : SAC, MILWAUKEE (194B-35)-P Date 11/5/80

ATTN: SA [redacted]

From : SA [redacted]

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Subject :

ALEX J. RAINERI,
Circuit Judge,
Hurley, Wisconsin
HOBBS ACT - OFFICIAL CORRUPTION;
ITAR - PROSTITUTION;
ITAR - BRIBERY; PERJURY; OOJ

OO: Milwaukee

Forwarded directly to lead Agent is trial subpoena for [redacted] Milwaukee, Wis. Additional subpoenaes regarding [redacted] are being forwarded to lead Agent as soon as received.

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Trial of captioned subject in USDC, Madison, Wis., begins 11/24/80. Leads being set forth herein are in preparation for this trial.

LEADS

MILWAUKEE DIVISION

At Milwaukee, Wis.

1. Will serve above-mentioned trial subpoena on [redacted] It is noted that [redacted] has stated some reluctance to testify; she should be directed to immediately contact USA FRANK M. TUERKHEIMER, Madison, Wis., (608/264-5158) to set up pre-trial interview in which she can express her position regarding testimony.

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2. Will attempt to locate [redacted] Negro female, born [redacted] who last were known to reside at [redacted] works at the Pabst Brewing Co.

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Will interview [redacted] regarding all knowledge of whereabouts of [redacted] Exhibit photograph [redacted] to [redacted] for identification, having them initial or sign reverse side. Numerous attempts to locate [redacted] at Milwaukee and Dallas, Texas have been made with unsuccessful results.

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[redacted]
(3)

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FBI/DOJ

USA has located an exception to the hearsay rule, which allows use of conversations involving [redacted] if she cannot be found and such efforts can be documented. If located, completely interview, serve with subpoena, and direct her contact with the USA. b6 b7C

3. Probably reason for [redacted] avoidance is that State CIB records reflect she is wanted on multiple warrants by Milwaukee PD and Milwaukee County SO (see page 70, prosecutive summary report of the writer, dated 5/16/80). b6 b7C

Warrants apparently are Milwaukee PD warrant [redacted] dated 9/23/74 for [redacted] Milwaukee County SO warrant, dated 9/24/74, origin case [redacted] and Milwaukee County SO warrant, dated 2/7/75, origin case [redacted] b6 b7C

It is requested that certified copies of these and any other outstanding warrants for [redacted] be obtained from the Milwaukee PD and Milwaukee County SO and forwarded directly to case Agent. b6 b7C

4. Will again attempt to locate [redacted] through sources, [redacted] and his attorney, etc., and if located serve with subpoena and completely interview regarding operations of the Show Bar, Hurley, Wis. b6 b7C

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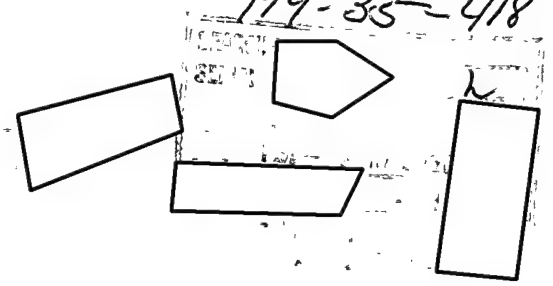
194-35-418



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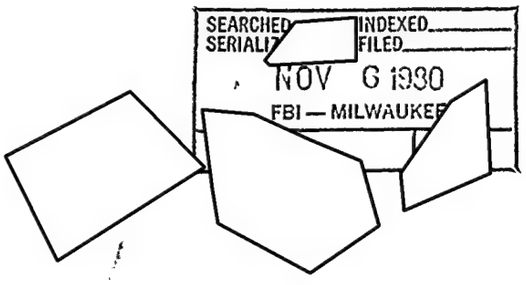
194-35-419



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IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALEX J. RAINERI,

Defendant.

REPORT AND RECOMMENDATION

80-CR-29

INTRODUCTION

This report and recommendation is submitted pursuant to 28 U.S.C. §636(b)(1)(B). It addresses the fourth group of defendant Raineri's pretrial motions, those seeking dismissal of the charges in this case.

On June 6, 1980, a five-count indictment was returned against Alex J. Raineri.

The first three counts, which span a five-week period from August 23 to September 29, 1978, allege that defendant caused the use of a facility in interstate commerce[1/] with intent to promote and facilitate the carrying on of a business enterprise involving prostitution (the Show Bar in Hurley, Wisconsin), and that he thereafter performed certain acts to facilitate the prostitution enterprise: Count I - caused a check payable to a prostitute to be taken

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1/ Count I charges that defendant caused both travel and the use of a facility in interstate commerce.

194-35

across the state line; Count II - caused a check paying for electrical power provided to the Show Bar to be taken across the state line; and Count III - caused the delivery and pick-up facilities of American Linen Supply to be used between Minnesota and Wisconsin. Counts I, II, and III allege violations of 18 U.S.C. §§1952 and 2.

Count IV alleges that defendant committed perjury, in violation of 18 U.S.C. §1623, when he testified before the Grand Jury on March 18, 1980, and denied having travelled with [redacted] -- the person running the Show Bar -- to and from Reno, Nevada, during a three-week period in September and October of 1978. b6 b7C

Count V alleges that on March 19, 1980, defendant endeavored to obstruct justice by arranging for a Grand Jury witness, Patricia Colassaco, to be threatened in connection with her prospective testimony, in violation of 18 U.S.C. §1503.

The following dismissal motions are before the court:

1. Motion to dismiss the indictment on the ground of the government's failure to present exculpatory evidence to the Grand Jury;

2. Motion to dismiss Counts I, II, and III on the grounds that these counts do not allege a business enterprise within the meaning of 18 U.S.C. §1952 and that the crimes charged are not within the intended scope of §1952;

3. Motion to dismiss Counts I, II, and III on the ground that the interstate activity alleged in these counts is insufficient to state an offense;

4. Motion to dismiss Counts I, II, and III on the ground that these counts do not allege the requisite intent;

5. Motion to dismiss Count I or require the government to elect, on the ground that the count is duplicitous;

6. Motion to dismiss Count IV or require the government to elect, on the ground that not all statements alleged in the count are false;

7. Motion to dismiss Count IV on the ground that the alleged false statements are not material; and

8. Motion to dismiss Count V on the ground of insufficiency.

The following motions filed by defendant are not addressed in this report and recommendation, for the reasons stated:

1. Motion to dismiss the indictment on the ground that the court's plan for selection of grand and petit jurors will deny defendant's right to a fair and impartial jury of his peers (motion not yet ripe for decision; see Decision and Order entered October 3, 1980, at 4-6);

2. Motion to dismiss the indictment on grounds of pre-indictment delay (motion withdrawn by defendant; see Defendant's Reply Memorandum, at 6);

3. Motion to dismiss Counts I, II, and III on the ground that no principal has been charged in connection with these counts (motion withdrawn by defendant; see Defendant's Reply Memorandum, at 17).

Such facts as are necessary to a consideration of defendant's motions are incorporated within the appropriate section of the following opinion.

OPINION

1. The Grand Jury and Exculpatory Evidence

Defendant has moved to dismiss the indictment in this case on the ground that the indictment was obtained as a result of the government's failure to present the grand jurors with exculpatory evidence.[2/] Defendant has further moved for an evidentiary hearing on his motion at which, he

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2/ This motion has been identified by defendant as "Defendant's Motion to Dismiss-8."

claims, "he will be able to present witnesses who will demonstrate that a principal Government witness or witnesses against the Defendant in this action harbor extremely ill feelings against the Defendant and suffer from severe mental disorders." (Defendant's Memorandum In Support of Motions, at 35). Although defendant's argument refers to "witnesses," it is clear from both other arguments in his brief and from counsel's affidavit in support of the motion that he is referring to only one witness -- [redacted]. It is defendant's contention that the government was obliged to inform the grand jury that [redacted] "was in a mental state which would reflect upon her competency to testify." (Defendant's Motion to Dismiss-8, at 1). b6 b7C

The government has demonstrated by affidavit that [redacted] testimony before the Grand Jury played a substantial part in the ultimate indictment in this case. (Affidavit of Frank M. Tuerkheimer, filed July 18, 1980, at paragraphs 7-17). The government has also conceded, in essence, that evidence bearing upon [redacted] mental state per se was not presented to the Grand Jury. The government argues, however, that it was not legally obliged to present such evidence and that [redacted] testimony was corroborated by testimony from a number of other witnesses. b6 b7C

Upon review of counsel's affidavits and arguments, I am persuaded that no evidentiary hearing on the alleged exculpatory evidence as to [redacted] mental state or competency is necessary, and that defendant's motion to dismiss the indictment because of the government's failure to present such evidence to the Grand Jury should be denied. b6 b7C

The parties apparently agree that the government generally is under no obligation to present a Grand Jury with all of the potentially exculpatory evidence in its possession.

The parties also apparently agree that the government's obligation in this regard extends only to the presentation of evidence that "clearly would have negated guilt." United States v. Mandel, 415 F. Supp. 1033, 1042 (D.Md. 1976); Accord, United States v. Narciso, 446 F. Supp. 252, 296-297 (E.D. Mich. 1977). I, too, agree with these statements of applicable legal standards. I further note my particular agreement with the court's statement in Mandel that the imposition of a broader requirement that the government present a Grand Jury with "all information that might be exculpatory" would place the courts in the risky position "of interfering too much with the Grand Jury process and [doing] so on the basis of guessing what evidence a Grand Jury might have found persuasive." Mandel, 415 F. Supp. at 1040 and 1042 (original emphasis).

Applying these standards to the present case, it is clear to me, first, that no evidentiary hearing need be conducted on defendant's motion. The defendant has neither alleged nor suggested that it could be demonstrated at such a hearing that any clearly exculpatory evidence in negation of defendant's guilt was either possessed by the government or withheld from the Grand Jury that returned the indictment in this case. Evidence that may have "reflected upon" [redacted] competence to testify before the Grand Jury -- as opposed to evidence that her testimony was totally unbelievable or even that she was incompetent to testify -- is not of a clearly exculpatory character; neither is evidence that [redacted] or other unnamed witnesses may have harbored bad feelings against the defendant. Both types of evidence that defendant desires to elicit at an evidentiary hearing would, in my view, go only to the question of the credibility of the Grand Jury testimony of those persons, an issue which the Grand Jury was presumably best able to

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assess and an issue which, in any event, would hardly appear to require scrutiny by the court at an evidentiary hearing.

Moreover, it is my opinion that a federal prosecutor is under no obligation to present a Grand Jury with evidence that might merely serve to impeach the credibility of its witnesses. The purpose of a Grand Jury is not to determine guilt or innocence, but rather to determine whether probable cause exists to believe a crime has been committed. United States v. Calandra, 414 U.S. 338, 343 (1974). Accordingly, the Seventh Circuit has held that "the Government on its own need not provide [a Grand Jury with] evidence that undermines the credibility of its witnesses." United States v. Gardner, 516 F.2d 334, 338-339 (7th Cir.), cert. denied, 423 U.S. 861 (1975).

Finally, on the basis of the United States Attorney's uncontested affidavit summarizing the evidence laid before the Grand Jury in this case (Tuerkheimer affidavit, filed July 18, 1980, at paragraphs 7-17), I find that the grand jurors were presented with substantial lay and expert testimony and documentary evidence corroborating [redacted] testimony in material respects. I further find, on the basis of the same uncontested affidavit (Id., at paragraphs 18-23), that the government in fact provided the grand jurors with potentially exculpatory evidence tending to contradict or impeach the testimony of several government witnesses, including [redacted] Among the potentially exculpatory evidence presented to the grand jurors was the testimony of defendant himself, who denied any involvement in the prostitution activities at the Show Bar and specifically assailed the credibility of [redacted]

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On the basis of these factual showings and the authorities cited above, it is my opinion that the government in this case met or exceeded its legal obligation to present potentially exculpatory evidence to the Grand Jury, and that the evidence bearing upon [redacted] mental state -- and therefore her credibility -- that was not presented to the grand jurors would not clearly have negated defendant's guilt. It will be my recommendation to the court that defendant's motion for an evidentiary hearing, as well as his motion to dismiss the indictment in this respect, be denied.

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2. Business Enterprise Allegations in Counts I, II, and III

Defendant has moved for dismissal of Counts I, II, and III of the indictment on the grounds that: 1) the activities alleged do not relate to a "business enterprise" within the meaning of 18 U.S.C. §1952; and 2) the attempted application of §1952 to this case exceeds the intended scope of the statute.[3/] Defendant has also requested an evidentiary hearing on the motion at which to demonstrate: 1) that any unlawful activities occurring at the Show Bar were not of a continuing nature and did not, therefore, constitute a business enterprise; and 2) that his own involvement in such activities was "sporadic" and not "continuous."

To the extent that defendant's motion attacks the legal sufficiency of Counts I, II, and III, as it was apparently intended to do,[4/] the motion is without merit. Rule 7(c)(1), F.R.Cr.P., requires that an indictment "be a plain, concise and definite written statement of the essential facts constituting the offense charged." To satisfy the test of sufficiency,

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3/ This motion is presented in Defendant's Motion to Dismiss-1" and Defendant's Amended Motion to Dismiss-1."

4/ At p. 13 of his supporting memorandum, defendant argues: "[t]he face of this Indictment in this action does not contain any information to indicate that the alleged unlawful business enterprise was a continuing course of conduct. . . ."

an indictment must fairly inform the defendant of the charges against which he must defend and be precise enough to provide protection against future jeopardy. United States v. Ray, 514 F.2d 418, 422 (7th Cir.), cert. denied, 423 U.S. 892 (1975). As long as the words of the statute involved clearly set forth all of an offense's constituent elements, it is generally sufficient that an indictment be stated in the words of the statute itself. Hamling v. United States, 418 U.S. 87, 117-118 (1974). Counts I, II, and III of the present indictment satisfy these principles. Tracking the words of the statute, while including additional factual detail, these counts contain sufficient allegations of violations of §1952. See United States v. Levine, 457 F.2d 1186, 1189 (10th Cir. 1972) (holding that indictment charging violation of §1952 in words "substantially" following the statute [see indictment at 1185, n. 1] was sufficient). In particular, each count alleges that defendant's specified activities were performed "with intent to promote and facilitate the carrying on of a business enterprise involving prostitution in violation of Sections 944.30 and 944.34 of the Wisconsin Statutes, an unlawful activity, in connection with . . . the Show Bar . . . ." (emphasis added). As defined in §1952, an "unlawful activity" includes "any business enterprise involving . . . prostitution offenses in violation of the laws of the state in which they are committed." 18 U.S.C. §1952(b)(1). Counts I, II, and III contain sufficient allegations of the requisite element of an "unlawful activity."

Defendant further challenges the first three counts of the indictment on the ground that the application of the statute to the facts of this case exceeds the intended purview of §1952. He argues, specifically, that the acts charged against him "represent sporadic casual involvement in a proscribed activity rather than any continuous course of criminal conduct,"

and that §1952 was not intended to encompass such minor involvement in an unlawful activity (Defendant's Memorandum in Support of Motions, at 14 and 17). There are two related reasons why I find these arguments unpersuasive, one primarily factual and one almost exclusively legal.

First, though defendant regards his alleged involvement in prostitution activities at the Show Bar as merely "sporadic [and] casual," it is clear that the government does not. A mere reading of the indictment's first three counts is sufficient to demonstrate the government's -- and the Grand Jury's -- belief that during a period from August 23 to September 29, 1978, defendant was engaged in acts in promotion of a prostitution business at the Show Bar, acts that might be fairly regarded as a continuing course of conduct. Moreover, as the government has shown by affidavit, it is the government's intent at trial to demonstrate that defendant was "deeply involved in the running of the Show Bar business," that he helped get dancers for the bar, did most of its book work, "collected the prostitution proceeds," generally helped with the business," and shared prostitution proceeds with [redacted] (Tuerkheimer affidavit filed July 18, 1980, at paragraph 14). To the extent, therefore, that defendant's purported legal challenge to the indictment is predicated upon a characterization of his involvement in prostitution activities that is at variance with the government's intended trial evidence, his challenge is one to be decided at trial after the conflicting testimony is put before the jury. After all, that is what trials are for.

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Secondly, there is strong legal justification for concluding that the type of extensive involvement in the business of prostitution that the government intends to prove in this case is precisely the type of activity Congress intended to reach through §1952. While "§1952 was aimed primarily at

organized crime and, more specifically, at persons who reside in one state while operating or managing illegal activities located in another," Rewis v. United States, 401 U.S. 808, 811 (1971), the language of the statute does not limit its reach to such exclusive circumstances. Erlenbaugh v. United States, 409 U.S. 239, 247 (1972). As one court has held in rejecting the contention that §1952 was limited in application to syndicate racketeering:

> On the contrary, as we read the legislative record, Congress meant exactly what the language of section 1952 states - it deliberately chose to make the statute applicable generally, and without any crippling restrictions, to any person engaged in any kind of illicit business enterprise in one of the four fields of activity specified in the statute . . . .

United States v. Roselli, 432 F.2d 879, 885 (9th Cir. 1970), cert. denied, 401 U.S. 924 (1971). The targeted offense of §1952 is "unlawful activity" facilitated or promoted by travel or the use of a facility in interstate commerce. Where the "unlawful activity," the underlying offense, involves gambling, alcohol, narcotics, controlled substances, or prostitution, "the Government must prove more than an isolated incident; it must prove a business enterprise." United States v. Wander, 601 F.2d 1251, 1257 (3d Cir. 1979). Such a business enterprise has been alleged by the government in the first three counts of the indictment in the present case.

Moreover, under the provisions pertinent to the present case, the targeted offender of §1952 is one who travels or uses interstate commerce facilities "with intent to . . . facilitate the promotion, management, establishment, or carrying on, of any unlawful activity." As used in the statute, "facilitate" means " 'to make easy or less difficult.' " United States v. Miller, 379 F.2d 483, 486 (7th Cir.), cert. denied, 389 U.S. 930 (1967) (quoting from United States v. Barrow, 212 F. Supp. 837, 840 (E.D. Pa. 1962)). While common sense would dictate that a person whose contact with the

"unlawful activity" was purely incidental and insignificant (for instance, a milkman making interstate deliveries to a gambling house) would not fall within the statute's ambit, it appears equally clear that a person who travels or uses a facility in interstate commerce with the requisite intent and the subsequent participation in the "unlawful activity" lies directly in the statute's path. Defendant is alleged in the indictment in the present case to be such an individual.

As a final matter, I note that the only court to have explicitly considered the matter has held that the "continuous course of conduct" referred to in the legislative history of §1952[5/] -- and relied upon by defendant -- "refers to the nature of the business promoted or facilitated - and not to the essence of the federal offense, which is 'travel' [or use of any facility in interstate commerce]." United States v. Teemer, 214 F. Supp. 952, 958 (N.D. W.Va. 1963).

For all of these reasons, it is my view that Counts I, II, and III contain sufficient allegations of a "business enterprise" within the meaning of §1952, and that the application of the statute to the alleged facts of this case is fully consonant with Congress' intent in enacting §1952. It will be my recommendation that defendant's motion to dismiss the first three counts in these respects be denied.

5/ The language of defendant's arguments is drawn from comments by Attorney General Robert F. Kennedy before the Senate committee considering approval of §1952 in 1961. Kennedy's remarks, as quoted in Rewis v. United States, 401 U.S. 808, 811-812, n. 6 (1971), included the following:

> The travel that would be banned is travel "in furtherance of a business enterprise" which involves gambling, liquor, narcotics, and prostitution offenses or extortion or bribery. Obviously, we are not trying to curtail the sporadic, casual involvement in these offense, but rather a continuous course of conduct sufficient for it to be termed a business enterprise.

It will be my further recommendation that defendant's request for an evidentiary hearing in support of his dismissal motion also be denied. The proper time and place for defendant to attempt to produce evidence showing that the Show Bar was not a business enterprise involving prostitution and that his own involvement with any unlawful activities at that establishment were "sporadic" is at trial and before a jury. "A motion to dismiss is not the proper way to raise a [factual] defense." United States v. Snyder, 428 F.2d 520 (9th Cir.), cert denied, 400 U.S. 903 (1970).

3. Interstate Activity Allegations in Counts I, II, and III

Defendant has moved for dismissal of Counts I, II, and III on the grounds that the interstate activity alleged in each of these counts of violation of §1952 was merely incidental and that, therefore, the counts fail to allege a sufficient basis for federal jurisdiction. Defendant has also requested an evidentiary hearing to prove his contention.[6/]

Defendant relies upon three Seventh Circuit decisions in which §1952 counts were dismissed for insufficient factual showing of a nexus between the jurisdictional element (travel or use of facility in interstate commerce) and the state crime (the "unlawful activity" under §1952): United States v. Isaacs, 493 F.2d 1124 (7th Cir. 1973), cert. denied, 417 U.S. 976 (1974); United States v. McCormick, 442 F.2d 316 (7th Cir. 1971); and United States v. Altobella, 442 F.2d 310 (7th Cir. 1971). Defendant also relies upon the legal test stated in a prior decision of this court, United States v. Vitich, 357 F. Supp. 102 (W.D. of Wis. 1973), in which Judge James E. Doyle upheld a §1952 indictment strikingly similar to the charges in the present case.[7/]

6/ The motion and request for evidentiary hearing are presented in "Defendant's Motion to Dismiss-7."

7/ A side-by-side comparison of the Vitich indictment and a representative charge in the present case (Count III) is helpfully presented at p. 35A of the government's Memorandum of Law in opposition to defendant's motion.

The government argues in opposition that the Seventh Circuit has more recently embraced a broader construction of §1952 than that presented in the earlier decisions relied upon by defendant. The government argues that the broader construction is reflected in United States v. McPartlin, 595 F.2d 1321 (7th Cir. 1979); United States v. Bursten, 560 F.2d 779 (7th Cir. 1977); United States v. Peskin, 527 F.2d 71 (7th Cir. 1975); and United States v. Rauhoff, 525 F.2d 1170 (7th Cir. 1975).

While conceding that its cases, as well as those advanced by defendant, have a bearing on this case, it is the government's principal contention that defendant's motion is premature; i.e., that a determination of "the nature and degree of interstate activity in furtherance of a state crime," Isaacs, 493 F.2d at 1148, can not be made from the face of an indictment, and must await a full evidentiary presentation at trial. Defendant counters with the argument that his requested evidentiary hearing is designed to substitute for the trial and to permit a pretrial determination of the issue. I am persuaded that the government's position is more correct and that a pretrial determination of defendant's motion should not be conducted.

The very cases relied upon by defendant support the conclusion that the sufficiency of an indictment's allegation of nexus between the jurisdictional element and the underlying offense in a §1952 prosecution is best determined upon the basis of evidence presented at trial. In Isaacs, McCormick, and Altobella, the Seventh Circuit ordered dismissal of §1952 charges after conducting a thorough review of the trial evidence in each case. In United States v. Vitich, this court upheld a §1952 indictment on a pretrial dismissal

motion, but the court's review of the matter was the functional equivalent of a review of the sufficiency of the government's trial evidence. The parties in Vitich entered into a lengthy stipulation of facts that the government would prove at trial, and stipulated further "that the court may consider the motion to dismiss as if it were a motion for judgment of acquittal filed during the trial at the close of the government's case." 357 F. Supp. at 103. In considering the Vitich "motion for judgment of acquittal," Id. at 105, Judge Doyle assessed the stipulated "trial evidence" according to the following test:

> From these decisions [Altobella and McCormick] it appears that there are two predominant factors bearing on the question whether the interstate activities of an unlawful operation bring it within the ambit of the Travel Act: (1) the significance of the role of the interstate activity in the unlawful operation; (2) whether the use of interstate facilities was a matter of happenstance or a conscious decision on the part of the defendant.

Id. at 104. It is impossible to imagine such a test being fairly and properly applied to a factual array less complete than could be presented at a trial, or at the very least, on a thorough stipulation of evidence as in Vitich. The parties to the present case have not agreed to such a stipulated set of facts.[8/]

8/ In an affidavit filed with the court on August 1, 1980, the prosecutor in the present case stated that the parties in Vitich had entered a further agreement: that if the dismissal motion in that case were denied, the defendant would plead guilty to the §1952 charge. The prosecutor's affidavit further stated that Vitich pled guilty pursuant to the agreement after Judge Doyle denied the motion. Finally, the prosecutor stated that a comparable offer has not been made by the defendant in this case. (Tuerkheimer affidavit filed August 1, 1980, at paragraph 2).

Under the circumstances of this case, I cannot accept defendant's contention that his requested evidentiary hearing would provide an adequate pretrial substitute for the expected evidentiary presentation at trial. If the evidentiary hearing were to provide a sufficient factual basis for court determination of the issue at hand, the hearing would have to be a virtual simulation of the actual trial on Counts I, II, and III. If at the close of the hearing defendant's motion were to be denied, the government and the defendant would be put to the additional expense and effort of "retrying" these counts before the jury at trial. If defendant's motion were to be granted after a pretrial evidentiary hearing, a trial would still be conducted on the remaining two counts of the indictment. For reasons explained in my earlier decision and order denying defendant's motion for severance of the various counts, a trial on Counts IV and V would likely involve the introduction of extensive evidence bearing upon the acts alleged in the first three counts. Thus, it appears to me that a pretrial evidentiary hearing would result in unnecessary and expensive duplication of efforts.

Defendant's motion also seeks dismissal of Counts I, II, and III on the ground that the indictment fails to specify the conduct he allegedly engaged in and the connection between him and the alleged use of interstate facilities. It is my view that the indictment is clear and detailed enough to withstand this sufficiency attack. See United States v. Cerone, 452 F.2d 274, 290 (7th Cir. 1971). The evidentiary detail missing from the indictment is more properly the subject of a bill of particulars. A motion for bill of particulars in these respects was filed by defendant in this case, and was largely consented to by the government. I have no reason to believe that the detail sought by defendant has not been provided in this manner, if not by earlier discovery.

For these reasons, it will be my recommendation that defendant's motion to dismiss Counts I, II, and III in these respects, as well as his request for an evidentiary hearing on the motion, be denied. Defendant's attack upon the sufficiency of the jurisdictional element in these counts can be renewed at the appropriate time during trial. I intimate no view on the merits of the motion, if renewed.

4. Allegation of Intent in Counts I, II, and III

Defendant has moved for dismissal of Counts I, II, and III on the ground that both the indictment and the information presented to the Grand Jury "did not indicate that the defendant used an interstate facility with the requisite intent required for a charge" under §1952. Defendant has also requested an evidentiary hearing at which to demonstrate that any use by him of an interstate facility "occurred without the requisite intent to promote a business enterprise" as required by the statute.[9/]

Defendant's attack on the sufficiency of the indictment's allegations of intent in Counts I, II, and III is frivolous. Each of these counts alleges that defendant caused the use of an interstate commerce facility "with intent to promote and facilitate the carrying on of a business enterprise involving prostitution." Such allegations are an explicit statement of the requisite intent required under the statute. See United States v. Miller, 379 F.2d 483, 486 (7th Cir. 1967). The indictment's allegations of intent are clearly sufficient.

9/ "Defendant's Motion to Dismiss-10."

Defendant's request for a pretrial evidentiary hearing is equally misguided. Defendant will have an ample opportunity at trial to introduce evidence that may demonstrate that he did not use interstate facilities with the intent to promote a prostitution business.

It will be my recommendation that defendant's motion to dismiss Counts I, II, and III in this respect, as well as his request for an evidentiary hearing on the motion, be denied.

5. Alleged Duplicity of Count I

Defendant has moved, alternatively, for an order dismissing Count I of the indictment or an order requiring the government to elect what its proof will be under this count.[10/] The ground of the motion is the asserted duplicitousness of Count I, which charges -- conjunctively -- that defendant "did cause travel and the use of a facility in interstate commerce . . . in that he caused a . . . payroll check, written in Hurley, Wisconsin, drawn on [a Michigan bank], payable to . . . a prostitute employed [at] the Show Bar . . . to be taken to the drawee bank in [Michigan] . . . ." (emphasis added).

The government argues in opposition that Count I is an entirely permissible instance of conjunctive pleading that requires neither dismissal or election.

The jurisdictional component of §1952 is phrased in the disjunctive; it prohibits either travel in interstate commerce or use of a facility in interstate commerce. §1952(a). These are "alternative means for the commission of the crime." United States v. Anderson, 368 F. Supp. 1253, 1260 (D. Md. 1973). Rule 7(c)(1), F.R.Cr.P., permits allegations in a single count that a defendant committed an offense "by one or more specified means."

10/ "Defendant's Motion to Dismiss-2."

Duplicity is best defined as "the joining in a single count of two or more distinct and separate offenses." Wright, Federal Practice and Procedure: Criminal §142, at p. 306. The relevant question, therefore, is whether Count I of the indictment charges a single offense or distinct and separate offenses. I believe the answer is obvious: Count I, based upon §1952, charges a single offense that can be committed by two means. Accordingly, "the charge can be laid in a single count, and indeed the use of several counts would involve multiplicity [the charging of a single offense in several counts]." Id. at p. 307-309.

This analysis is completely consistent with reported decisions upholding the conjunctive pleading of a violation of §1952. See United States v. Amick, 439 F.2d 351, 358-359 (7th Cir.) cert. denied, 404 U.S. 823 (1971); Turf Center, Inc. v. United States, 325 F.2d 793, 796-797 (9th Cir. 1964). Moreover, in Turf Center the court stated:

> [I]t is recognized that charging in one count the doing of the prohibitted act in each of the prohibitted modes redounds to the benefit of the accused. A judgement on a verdict of guilty upon that count will be a bar to any further prosecution in respect to any embraced by it. Crain v. United States, 162 U.S. 625, 636 (1896).

352 F.2d at 796-797. See also Turner v. United States, 396 U.S. 398 (1970).

In light of my conclusion that Count I is not duplicitous, it is my view that neither dismissal nor government election of the mode of proof is required. Defendant's concern that the submission of the conjunctive charge to the jury may lead to a less than unanimous verdict of guilty (with some jurors finding travel, others finding use of an interstate facility, but all finding one or the other) is one that can be dealt with adequately by appropriate jury instructions, if such are believed necessary.

It will be my recommendation that defendant's motion to dismiss Count I or, in the alternative, to require the government to elect between the alternative jurisdictional allegations, be denied.

6. Election or Dismissal of Count IV

Defendant has moved, alternatively, for either an order dismissing the perjury count of the indictment (Count IV) or an order requiring the government to elect as to which of the allegedly false statements recited in the indictment it will proceed upon at trial.[11/] In its brief in opposition to defendant's motions, the government consented to the election motion. The government has now apparently specified for the defendant the allegedly false statements it intends to prove at trial, and defendant's reply memorandum indicates that defendant is satisfied with the government's decision. If not specifically withdrawn by defendant, it is nonetheless clear that there is no reason to grant defendant's motion. Accordingly, it will be my recommendation that defendant's motion for dismissal of Count IV, or for government election of proof, be denied.

7. Alleged Immateriality of False Statements Charged in Count IV

Defendant has moved for dismissal of the perjury count in the indictment, Count IV, on the ground that the allegedly false statements recited therein were not material to the investigation being conducted by the Grand Jury at the time of his testimony before it.[12/] An evidentiary hearing is also requested. Defendant specifically contends

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11/ "Defendant's Motion to Dismiss-11."

12/ "Defendant's Motion to Dismiss-6."

that it was not material to the Grand Jury's investigation whether or not he traveled with and was accompanied by [redacted] during a trip to Reno, Nevada, in September and October of 1978. b6 b7C

The materiality of an allegedly false declaration is, of course, a required element of a perjury charge under 18 U.S.C. 1623. Count IV of the indictment contains a well-pled allegation of the materiality of the charged false statements in this case,[13/] and there can be no doubt that the count is immune from attack on pleading sufficiency grounds. See United States v. Rook, 424 F.2d 403, 405 (7th Cir. 1970).

Beyond this, however, defendant argues that the court should determine in advance of trial that his allegedly false statements to the Grand Jury did not constitute a crime because, as a matter of law, they were not material to the Grand Jury's investigation. Defendant contends that this issue is appropriate for pretrial examination because materiality under §1623 is a question of law.

13/ Count IV, paragraph 2, specifically alleges that the Grand Jury, on the date of defendant's testimony, was "conducting an investigation into possible violations of [federal law] in connection with prostitution activities and those involved with such activities centering around the Show Bar in Hurley, Wisconsin, during the period including 1977 to 1979." Paragraph 3 further alleges that it "was material to said investigation to ascertain what connection, if any, existed between [defendant] . . . and [redacted] the person in overall charge of the Show Bar . . . [and that] it was material to ascertain whether [defendant] in attending a judicial function in Reno, Nevada in September and October, 1978, travelled with and was accompanied by [redacted] After reciting a portion of defendant's testimony in paragraph 4 (in which defendant stated that he had met [redacted] in Reno but had not travelled with her either to Reno or back to Hurley), paragraph 5 alleges that defendant's declarations were false and "material to the investigation." b6 b7C

The dependent clause of the last sentence is a correct statement of the law, see, e.g., Sinclair v. United States, 279 U.S. 263 (1929); United States v. Giacalone, 587 F.2d 5 (6th Cir. 1978), but it does not follow from recognition of this well-settled principle that a court ought normally decide the question in advance of trial.

The "formulation of materiality" in this circuit is as follows:

> [F]alse testimony before the grand jury is material if it "has the natural effect or tendency to impede, influence or dissuade the grand jury from pursuing its investigation." Merely potential interference with a line of inquiry is sufficient to establish materiality, regardless of whether the perjured testimony actually serves to impede the investigation.

United States v. Howard, 560 F.2d 281, 284 (7th Cir. 1977).

It is my view that a determination of the materiality of defendant's alleged false testimony under the Howard test can most appropriately be made at trial, where the trial judge can assess the matter on the basis of all evidence bearing upon materiality, including evidence relevant to other counts of the indictment. I note that defendant has argued on the merits that his conceded acquaintance and connection with [redacted] was the only fact material to the Grand Jury's investigation. I note also the government's opposing argument that the nature of their connection was of critical and material interest to the Grand Jury. I intimate no view on the merits of these arguments, leaving the issue for resolution at trial.

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From my position on pretrial determination of the materiality issue, it logically follows that defendant's request for an evidentiary hearing on the motion should be denied. Moreover, for the same reasons I expressed earlier

in rejecting defendant's request for an evidentiary hearing on the sufficiency of the jurisdictional showing in Counts I, II, and III, I believe that an evidentiary hearing on the present motion would not be a wise use of judicial and legal resources.

It will be my recommendation that defendant's motion to dismiss Count IV of the indictment, as well as his request for an evidentiary hearing on the motion, be denied.

8. Alleged Insufficiency of Count V

The final motion to be considered in this report and recommendation is defendant's motion to dismiss the obstruction count of the indictment, Count V, on the following asserted grounds of legal insufficiency: 1) because the indictment fails to allege that defendant was aware that Patricia Colassaco was to be a witness before the Grand Jury; and 2) because defendant is charged as a principal while the count charges only that he arranged for Colassaco to be threatened.[14/]

Count V alleges that on March 19, 1980, defendant "by threat and threatening communication, endeavored to influence, obstruct and impede the due administration of justice in that he arranged for Patricia Colassaco, a prospective witness in a then-pending Grand Jury investigation ... to be threatened in connection with her prospective testimony." In an affidavit submitted by the prosecutor in this case, it is stated that at his appearance before the Grand Jury on March 18, 1980, defendant had been asked, among other questions, whether Patricia Colassaco had ever told him that prostitution

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14/ "Defendant's Motion to Dismiss-4" and "Defendant's Amended Motion to Dismiss-4."

was occurring at the Show Bar (as Colassaco had previously stated to an F.B.I. agent in December of 1979). Defendant denied that Colassaco had ever made such a statement to him. The affidavit further states that on the next day, March 19, 1980 -- according to Patricia Colassaco's brother -- defendant asked her brother "to talk to his sister to get her to quit telling lies, keep quiet and that if she didn't want to listen to her brother, Raineri could get a couple of guys to talk to her to get her to stop telling lies and keep her mouth shut." (Tuerkheimer affidavit filed July 18, 1980, at paragraphs 10-12).

Defendant's argument that Count V is legally insufficient for failure to specifically allege that he was aware of Patricia Colassaco's status as a potential witness is apparently foreclosed in this circuit by the contrary holding in United States v. De Stefano, 476 F.2d 324 (7th Cir. 1973). In that case, an indictment for violation of §1503 by threatening a trial witness contained no specific allegation that the defendant knew the person threatened was to be a witness at a pending trial. Id. at 327-328. In finding the indictment legally sufficient, the court expressly rejected the argument that a §1503 indictment must allege such knowledge or awareness. Id. at 328.

Pursuant to De Stefano, it is my view that Count V in this case is legally sufficient. There can surely be no substantial claim that the count fails to inform defendant of the nature of the charge against him or provides insufficient protection against future jeopardy.

Moreover, I believe that the absence of an express allegation of defendant's awareness of Colassaco's future witness status does not transform Count V into a statement of a strict liability offense. The indictment's language states that defendant arranged for Colassaco "to be threatened in connection with her prospective testimony." This language provides the requisite scienter or mens rea. See De Stefano, 476 F.2d at 328.

The second prong of defendant's challenge to Count IV is without merit. Defendant contends that in the absence of a charge of violation of 18 U.S.C. §2, he is unable to determine whether the government intends to proceed against him as a principal, an aider and abettor, or a co-conspirator. His reading of the government's brief in opposition to his motion should have answered his questions.

As the government correctly argues, it is a crime under §1503 to "endeavor" to obstruct the administration of justice. The "endeavor" is the completed crime and the appropriate unit of prosecution, for the word " 'describes any effort or essay to accomplish the evil purpose that the section was enacted to prevent. . . . The section is not directed at success in corrupting a juror but at the 'endeavor' to do so.' " Osborn v. United States, 385 U.S. 323, 333 (1966) (quoting from United States v. Russell, 255 U.S. 138, 143 (1921)). An arrangement to intimidate or threaten a prospective witness is, therefore, an "endeavor" to obstruct justice. See United States v. Missler, 414 F.2d 1293, 1306 (4th Cir. 1969), cert. denied, 397 U.S. 913 (1970). There can be no doubt that Count V contains a legally sufficient statement of defendant's status as a principal for his alleged "endeavor" to obstruct and impede justice, in violation of §1503.

It will, therefore, be my recommendation that defendant's motion to dismiss Count V be denied.

RECOMMENDATION

It is respectfully recommended that this court:

1. Adopt as its own the findings of fact incorporated in the opinion above.
2. DENY defendant's motion to dismiss the indictment for failure of the government to present the Grand Jury with exculpatory evidence, and DENY defendant's request for evidentiary hearing on this motion.
3. DENY defendant's motion to dismiss Counts I, II, and III for alleged insufficient allegations of a "business enterprise" within the meaning of 18 U.S.C. §1952, and DENY defendant's request for evidentiary hearing on this motion.
4. DENY defendant's motion to dismiss Counts I, II, and III for alleged insufficient allegations of interstate activity, and DENY defendant's request for evidentiary hearing on this motion.
5. DENY defendant's motion to dismiss Counts I, II, and III for alleged insufficient allegations of intent, and DENY defendant's request for evidentiary hearing on this motion.
6. DENY defendant's alternative motion for dismissal of Count I or government election of proof on the ground of Count I's alleged duplicitousness.
7. DENY defendant's alternative motion for dismissal of Count IV or government election of proof.
8. DENY defendant's motion for dismissal of Count IV on the ground of the alleged immateriality of defendant's false statements, and DENY defendant's request for evidentiary hearing on this motion.

9. DENY defendant's motion for dismissal of Count V.

Entered this 15th day of October, 1980.

WILLIAM L. GANSNER
United States Magistrate

FD-302(rev.3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription
10/27/80

1

The below listed Agent identified himself by use of credentials to [redacted] at her place of employment at [redacted] accepted service of a subpoena issued by the United States District Court (USDC) for the Western District of Wisconsin (WDW) for her to appear at the WDW, [redacted] United States Courthouse, 215 Monona Avenue, in the city of Madison, Wisconsin, on the [redacted]

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Interviewed on 10/24/80 at [redacted] File # NY 194-159

By SA [redacted] Date Dictated 10/24/80

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

AIRTEL

DATE: NOV 5 1980

TO : DIRECTOR, FBI (194B-1122)

FROM : ADIC, NEW YORK (194-159) (RUC) (M-12)

SUBJECT: ALEX J. RAINERI,
CIRCUIT JUDGE,
HURLEY, WISCONSIN
(OO:MI)

Reteletype to Director, dated 10/17/80.

Enclosed for MI are one executed subpoena served on [redacted] original and one copy of FD-302 reflecting service of subpoena. b6 b7C

Inasmuch as there are no remaining leads at New York, this matter is being RUC'd.

2 - Bureau
(2) - Milwaukee (Enc. 3)
1 - New York

[redacted]
(5)

194-35-421

SEARCHED [redacted] INDEXED
SERIALIZED [redacted] FILED
NOV 7 1980
FBI - MILWAUKEE

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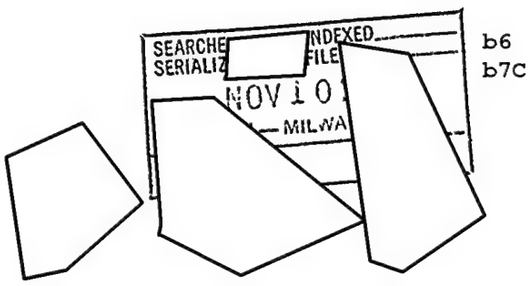

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IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALEX J. RAINERI,

Defendant.

DECISION AND ORDER

80-CR-29

INTRODUCTION

This decision and order addresses the third unit or group of defendant Raineri's pretrial motions, those bearing upon the place and manner of trial. These motions are:

1) defendant's motion for transfer of the trial to another location within the Western District of Wisconsin;

2) defendant's motion for disqualification of the Honorable Barbara B. Crabb as trial judge; and

3) defendant's motion for severance and separate trial of each of the five counts of the indictment.

DECISION

Motion for Transfer of Trial

Rule 18, F.R.Cr.P., provides as follows:

> Rule 18. Place of Prosecution and Trial.
> Except as otherwise permitted by statute or by these rules, the prosecution shall be had in a district in which the offense was committed. The court shall fix the place of trial within the district with due regard to the convenience of the defendant and the witnesses and the prompt administration of justice.

Pursuant to this Rule, defendant has moved for an order transferring the trial in this case from Madison, Wisconsin, to, alternatively, Hurley, Wisconsin (where the crimes in Counts I, II, III, and V of the indictment were alleged to have occurred and where the defendant resides), or Superior, Wisconsin.[1/]

Defendant argues that a transfer of trial to Hurley or Superior would: 1) further the interest of justice by permitting defendant to be tried by a jury of his peers selected from the area where he resides, where he has been elected to public office as district attorney and state court judge, and where most of the alleged offenses occurred;[2/] and 2) result in far greater convenience for the defendant and the witnesses. The government argues in opposition that defendant has no legal entitlement to trial

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1/ Hurley and Superior, Wisconsin were the two cities to which transfer of the trial was requested in defendant's motion papers. Accordingly, the government's opposing brief and affidavits addressed the question of possible transfer to those cities only. In his reply brief, however, defendant argued in addition -- and in a thoroughly confusing fashion -- that, as a "final alternative" to trial in those two cities, the court should consider a transfer of trial to Wausau, Wisconsin, or the selection of a jury in Hurley with subsequent trial in Madison. I have no idea which of these two alternatives defendant meant as his real "final alternative" to trial in either Hurley or Superior, but I need not decide that question.

These "final alternative[s]" were raised for the first time in a reply memorandum submitted to the court more than a month after the motion's filing and well after the government's opposing brief and affidavits had been submitted pursuant to the court's briefing schedule. The assertion of these alternatives to the original motion was untimely, and they will not be considered by the court. If I were to consider them, I would note as a preliminary matter that their very assertion substantially undercuts defendant's argument that Hurley or Superior are the only trial venues convenient to defendant and the witnesses.

2/ The crime alleged in Count IV of the indictment, the perjury count, apparently occurred at a session of the Grand Jury in Madison. As noted above, Counts I, II, III and V involve offenses allegedly committed in Hurley.

in, or a jury selected from, the Hurley-Superior area of this district, and that a trial in either Hurley or Superior -- while perhaps more convenient to a majority of the witnesses in terms of their travel time from place of residence to court -- could be expected to produce substantial delays during trial because of inadequate library resources in those cities.

The parties have submitted affidavits material to the transfer motion. From them, and by judicial notice,[3/] I find the following relevant facts:

Parties and counsel. The defendant resides in the City of Hurley, Iron County, Wisconsin. I take judicial notice that his attorneys maintain offices in Madison and Wausau, Wisconsin, and that the office of the United States Attorney for this district is located in Madison. The United States Attorney has no facilities, including library facilities, in Hurley or Superior.

Witnesses. Although the total number of witnesses likely to be called at trial is unclear, it appears that the majority of witnesses may come from the Hurley area.[4/] The government intends to call at least four witnesses from the Madison area and four to six witnesses from outside Wisconsin. Defendant intends to call several witnesses from California, Nevada, and other out-of-state locations.

3/ Judicially noticed facts will be specifically identified.

4/ My finding on witnesses from the Hurley area is necessarily imprecise. The government has not stated how many of its witnesses will come from that locale. Defense counsel has made two factual statements in this regard, but they are inconsistent; i.e., defense counsel has stated his belief that "the vast majority of the witnesses in this case reside in Iron County, Wisconsin," but has also stated in the same affidavit that "approximately 50 witnesses will be called . . . most of whom reside in or around Ashland, Hurley, Ironwood or Hibbings (sic), Minnesota." I cannot discern the distinction between counsel's use of "the vast majority" and "most" in these statements. I take judicial notice, however, that of the four cities identified in the latter statement, only Hurley lies within Iron County, Wisconsin. Ashland, Wisconsin is in an adjacent county and Ironwood, Michigan is contiguous to Hurley but across the Michigan-Wisconsin border.

I take judicial notice that the highway driving distance between Madison and Hurley is 423 miles and between Hurley and Superior is 167 miles. I take further notice that an airport is located in Madison that is served by several commercial air carriers with daily direct and connecting flights to destinations both within and without Wisconsin.

The Western District and its jury selection divisions. I take judicial notice that 28 U.S.C. §129 divides Wisconsin into Western and Eastern districts. Section 129 does not divide the Western District of Wisconsin into divisions; it merely names places of holding court (Madison and Superior being among them). I take further notice that under the Jury Selection and Service Act of 1968, 28 U.S.C. §1869(e)(2), "in judicial districts where there are no statutory divisions," a "division" is defined as "such counties, parishes, or similar political subdivisions surrounding the places where court is held as the district court plan shall determine: PROVIDED, That each county, parish or similar political subdivision shall be included in some such division." (emphasis added). Pursuant to the Act, this district court has adopted a Plan for the Random Selection of Grand and Petit Jurors that divides the Western District into several divisions for jury selection purposes. Iron County and Douglas County (in which Superior, Wisconsin lies) are included within the Plan's "Superior Division." Madison is included within the Plan's "Madison Division."

Courtroom facilities. I take judicial notice that the only full-time place of court within this district is Madison, where the court's chambers, the clerk's office, and the U.S. Marshal's office are located. There is no federal

court facility in Hurley. The federal court facility in Superior no longer houses a functioning courtroom. It has been declared surplus property; its library and all courtroom furniture have been removed from the building. I take judicial notice that county courthouses are located in Hurley and Superior.

Library facilities. The United States Attorney has no library in Hurley or Superior. I take judicial notice that the court has no library in those cities and that the court maintains a substantial library in Madison. The Iron County Law Library is not a functioning federal law library.[5/] The Douglas County Law Library has a more adequate collection of federal legal materials, but lacks significant research tools.[6/]

The St. Louis County Courthouse and a federal courthouse of the United States District Court for the District of Minnesota are both located in Duluth, Minnesota, approximately five miles from the former federal court facility in Superior, Wisconsin.

At a meeting on August 19, 1980, the Board of Commissioners for Gogebic County, Michigan (which is adjacent to Iron County, Wisconsin) authorized use of the Gogebic County Law Library by defense counsel [redacted] and established a daily rate of $100.00 for such use. Attorney [redacted] has stated that it is his understanding that the fee would also cover daily use of the library by both the

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5/ The Iron County Law Library does not contain the following materials: United States Reports, Federal Supplement, Federal Reporter (2d Series), United States Code Annotated, Shepherd's Citations, Modern Federal Practice Digest, and West's Federal Practice Digest.

6/ The Douglas County Law Library does contain the following volumes: United States Reports, Federal Supplement, United States Code Annotated, and Federal Reporter (2d Series). The library, however, does not contain the following materials: Shepherd's Citations, Modern Federal Practice Digest, and West's Federal Practice Digest.

The materials not available in the Douglas County Law Library can be found in the St. Louis County Law Library in the adjacent city of Duluth, Minnesota, between the hours of 8:00 a.m. and 4:30 p.m. on weekdays.

prosecution and this court.[7]

Defense counsel [redacted] possesses a set of the United States Code Annotated which he will make available to the prosecution and the court during any trial in Hurley or Superior if no other set is easily accessible. Defense counsel [redacted] has promised to move to Hurley any federal research tools which the United States Attorney believes necessary. b6 b7C

On the basis of these factual findings, I now proceed to consideration of the legal issues raised by defendant's motion for intradistrict transfer of the trial in this case.

While defendant places substantial reliance upon the argument that transfer is appropriate under Rule 18, F.R.Cr.P., because trial in Hurley or Superior will be more convenient to defendant and the witnesses, it is also clear that defendant believes he has a "right" to "trial in the division where the offense allegedly occurred."[8] Defendant's latter argument will be considered first.

Defendant apparently misapprehends the constitutional and statutory context in which Rule 18 operates. The constitutional provisions controlling venue (Article III, §2, clause 3) and vicinage (Sixth Amendment) make the state and district of a crime's commission the appropriate place for jury trial in a federal prosecution. The former provision places venue "in the state where the said crimes shall have been committed." The latter provision guarantees the right to trial "by an impartial jury of the state and district wherein the crime shall have been committed." Neither

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7/ The action of the Gogebic County Board of Commissioners and Attorney [redacted] understanding of it are reflected in correspondence submitted to this court by Attorney [redacted] b6 b7C

8/ Defendant's Reply Memorandum, at 48.

constitutional provision makes any reference to statutory divisions within a judicial district. It has therefore been recognized that "when a district is not separated into divisions . . . trial at any place within the district is allowable under the Sixth Amendment and the first sentence of F.R.Cr.P. 18." United States v. Fernandez, 480 F.2d 726, 730 (2d Cir. 1973). The same is true for districts that have been separated into judicial divisions; "the accused has no right to a trial held in a particular division, even one where the crime occurred, since the constitutional guarantee is written in terms of districts." Zicarelli v. Gray, 543 F.2d 466, 479 (3d Cir. 1976) (footnote citations omitted). The district, and not a statutory division of it, is the constitutionally prescribed unit of venue in federal criminal cases. United States v. James, 528 F.2d 999, 1021 (5th Cir. 1976).

The Jury Selection and Service Act of 1968 neither conflicts with nor expands these constitutional requirements. The Act, of course, declares it to be national policy that all litigants in federal jury cases "shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes." 28 U.S.C. §1861.[9/] This language does not create a requirement that a trial court convene not only in the district

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9/ As noticed in my factual findings, for purposes of the Act, "division" is defined as:

> (1) one or more statutory divisions of a judicial district; or (2) in statutory divisions that contain more than one place of holding court, or in judicial districts where there are no statutory divisions, such counties, parishes, or similar political subdivisions surrounding the places where court is held as the district court plan shall determine; PROVIDED, That each county, parish, or similar political subdivision shall be included in some such division;

28 U.S.C. §1869(e) (emphasis added).

but also in the division where the crime occurred. United States v. Cates, 485 F.2d 26, 27-28 (1st Cir. 1974). Instead, it merely provides that the grand or petit jurors, as the case may be, be selected from a fair cross-section of the community in either the district or division where the jury sits. Id., at 27 and 29. The place where the jury sits is established not by the Act, but by the Constitution and Rule 18.

If the place of trial in this case were to be fixed at Superior or Hurley, the jury would be selected from persons residing in the "Superior division," a multi-county division created by the court's Plan for the Random Selection of Grand and Petit Jurors, which was adopted in compliance with the Jury Selection and Service Act. "Divisions" created by the court's Plan are for jury selection purposes and are obviously different than a congressionally-created statutory division of a federal judicial district. See United States v. Florence, 456 F.2d 46, 48 (4th Cir. 1972). If the place of trial in this case remains fixed at Madison, the jury will be selected from persons residing in the Plan's "Madison division."

In either event, jury selection will be conducted in compliance with the requirements of the Act and the Constitution. When a court Plan under the Act creates divisions for jury selection purposes and the place of trial is properly fixed at a location within one such division, a defendant has no statutory or constitutional right to a jury selected from another division, not even when the defendant's residence and the place of the alleged crime are both within the other jury selection division. Id., at 48-50.

The offenses charged in this case are alleged to have occurred within the Western District of Wisconsin. The place of trial may properly be fixed at Madison. Defendant has no constitutional or statutory right either to venue in the "Superior division" or to a jury selected from within that "division."

Defendant has raised more substantial arguments for transfer of trial through an exercise of the court's discretionary powers under Rule 18, F.R.Cr.P. A thorough review of the relevant facts and legal authorities has convinced me, however, that trial of this case is more appropriate in Madison than in either Hurley or Superior.

Rule 18 provides that the place of a federal criminal trial be fixed within a district "with due regard to the convenience of the defendant and the witnesses and the prompt administration of justice." Rule 18 does not vest a defendant with a right to choose a particular place of trial, Florence, 456 F.2d at 50; Houston v. United States, 419 F.2d 30, 33 (5th Cir. 1969), but grants instead "a discretionary power to the court to be exercised upon a showing of good cause." Id. Accord, United States v. Lewis, 504 F.2d 92, 97 (6th Cir. 1974).

I am willing to accept defendant's assertion that trial in Hurley or Superior would be more convenient for defendant and the majority of his witnesses in terms of travel time and expense in coming to Madison, although I note that defendant has offered no factual substantiation for his assertion in brief that he "cannot endure" the cost of housing witnesses in Madison hotels during trial. In accepting defendant's position on the greater convenience (again, in terms of travel time and expense) of a Hurley or

Superior venue, I have considered only the convenience of defendant and his witnesses, for this appears to have been the construction of the Rule intended by its drafters. See 1966 Advisory Committee Note to Rule 18.

The logistical problems with a trial in Hurley or Superior, however, would likely be severe. I believe these problems would lead inevitably to a much longer trial than could be had in Madison and therefore produce considerable inconvenience for the witnesses of both parties.

If trial were held in Hurley or Superior, the court and counsel would be working without an adequate federal research library close at hand. This is not a problem that is satisfactorily solved by traveling to a library in an adjacent city, whether an extortionate fee is exacted or not for its use; nor is it solved by defense counsel's agreement to provide and deliver library materials from their own collections (a suggestion that I suspect is easier to make than honor). It is unreasonable to expect a lengthy trial to be conducted efficiently and properly under such circumstances, and I believe the government is correct in anticipating that a trial in Hurley or Superior would be punctuated by lengthy adjournments while counsel and the court struggle as best they can to secure adequate references. No such problem or delays would likely be encountered in Madison. For this compelling rationale, I cannot conclude that trial in Hurley or Superior would be more convenient for defendant and his witnesses or in furtherance of the prompt administration of justice.

Moreover, there are no federal court facilities in either of the two cities proposed for transfer. While I assume that with time some arrangements could perhaps be

made for the use of space in county courthouses in Hurley or Superior, I find it difficult to conceive that the drafters of Rule 18 ever intended that an intradistrict transfer of a federal trial be granted to venues having no federal court facilities.[10/]

I believe I have given "due regard to the convenience of the defendant and the witnesses," as required by Rule 18, F.R.Cr.P. The consideration I have given to the practical problems of a trial in Hurley or Superior does not reflect a primary concern for the government's convenience, see United States v. Gurney, 393 F. Supp. 688, 706 (M.D. Fla. 1974), or the court's. Instead, I have concluded that a trial in either of the two requested locations would result in far greater inconvenience to defendant and the witnesses than can reasonably be expected in Madison. Defendant's transfer motion should be denied.

Motion for Disqualification of Trial Judge

Defendant's motion for disqualification of the judge assigned to the trial of this case, the Hon. Barbara B. Crabb, is frivolous and deserves summary treatment only.

Defendant seeks Judge Crabb's disqualification from his case on the grounds that an appearance of impropriety is created by a federal district judge presiding over a trial of a current state court judge when the former has previously reviewed a decision of the latter, and may be

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10/ I note in this respect that 28 U.S.C. §142 mandates that federal court be held "only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States." Whether this statute is a definite legal impediment to defendant's requested transfer of trial is a question the court need not decide.

called upon to do so in the future. The purported factual basis for the motion is defense counsel's assertion by affidavit that Judge Crabb, while previously serving as United States Magistrate for this district, had a part in the collateral review of the state court conviction of a [redacted] whose conviction had allegedly been obtained in the court of the defendant. b6 b7C

By its own affidavit of counsel, the government has contested the accuracy of defendant's factual averments. The government has submitted a copy of the court's docket sheet for the case of Kasieta v. Gagnon, No. 74-C-162 (a habeas corpus petition filed in this court in May of 1974), which reveals that former magistrate Crabb's report and recommendation on the petition were filed on December 19, 1975 and that an opinion and order granting the writ were filed on February 2, 1976. The government has further alleged by affidavit that the defendant did not become Circuit Court Judge for Iron County, Wisconsin, until January 1, 1978. Accordingly, the government argues that there is no factual basis for defendant's motion to disqualify Judge Crabb.

On the basis of counsel's affidavits, I find that defendant has failed to demonstrate that Judge Crabb's judicial involvement in Kasieta v. Gagnon constituted review of a decision of the defendant while serving as a state court judge.

Had defendant succeeded in establishing his factual allegation, however, neither that fact nor the possibility of Judge Crabb's future review of decisions rendered by the defendant would in any way justify the granting of his motion. Defendant has provided no basis for reasonably questioning Judge Crabb's impartiality, 28 U.S.C. §455(a),

and has alleged no personal bias or prejudice on Judge Crabb's part either against him or in favor of the government in this case, 28 U.S.C. §144. See United States v. Wolfson, 558 F.2d 59 (2d Cir. 1977).

Moreover, if it had been established that Judge Crabb had previously reviewed a decision of defendant's, I could perceive no appearance of impropriety arising from her present status as trial judge in this case and her past issuance of the judicial ruling. See Lazofsky v. Somerset, 389 F. Supp. 1041 (E.D.N.Y. 1975). I can perceive no appearance of impropriety arising from her present status and the mere possibility of her being called upon to review a decision of defendant's at some future time.

Defendant's motion for disqualification of Judge Crabb as trial judge in this case will be denied.

Motion for Severance

Defendant's motion for severance seeks relief which if granted would require a separate trial of each of the five counts of the indictment. The motion is basically divided into two parts: 1) directed to Counts I, II, and III, and seeking a separate trial of each count on the ground of prejudicial joinder; and 2) directed to Counts I, II, and III and Counts IV and V as two distinct groups, and seeking separate trials of each group on the grounds of misjoinder and prejudicial joinder.

A brief summary of the counts in the indictment is necessary. The first three counts, which span a five-week period from August 23 to September 29, 1978, allege that defendant caused the use of an interstate facility with intent to promote the carrying on of prostitution activities at the Show Bar in Hurley, Wisconsin, and that he thereafter performed

acts to promote the carrying on of the prostitution activities. Count IV alleges that defendant committed perjury in his testimony before the Grand Jury on March 18, 1980, when he denied having travelled to Reno, Nevada, and back to Hurley with [redacted] the person running the Show Bar. b6 b7C Count V alleges that on March 19, 1980, defendant endeavored to obstruct justice by arranging for a prospective Grand Jury witness, Patricia Colassaco, to be threatened in connection with her prospective testimony.

A. Alleged Prejudicial Joinder of Counts I, II, and III

Defendant's motion for severance and separate trials of the indictment's first three counts raises no claim of improper joinder under Rule 8, F.R.Cr.P. Instead, the motion seeks relief under Rule 14, F.R.Cr.P., from the allegedly prejudicial effects of joinder. Defendant argues that prejudice to his interest in a fair trial will accrue from the introduction of evidence on distinct counts not admissible on others and from the alleged cumulative effect of the similar charges on the jury.

The test to be applied in deciding a motion under Rule 14 is "whether the joinder is so manifestly prejudicial that it outweighs the dominant concern with judicial economy and compels the exercise of the court's discretion to sever." United States v. Brashier, 548 F.2d 1315, 1323 (9th Cir.), cert. denied, 429 U.S. 111 (1976). Accordingly, "[a] defendant bears the burden of demonstrating that he has been prejudiced by the joinder; that burden is a difficult one." United States v. Harris, 542 F.2d 1283, 1312 (7th Cir. 1976), cert. denied, 430 U.S. 934 (1977). It is not enough that a defendant show or argue that separate trials would improve the chances for acquittal; "a defendant must show that he will be unable to obtain a fair trial without severance." United States v. Papia, 560 F.2d 827, 836 (7th Cir. 1977).

Defendant has not discharged his burden of demonstrating that the joint trial of Counts I, II, and III will be manifestly prejudicial. As the government correctly argues, the only difference in the proof on each of the first three counts will likely relate to the jurisdictional element of each offense. Such proof can have little discriminatory impact. Therefore, the danger that the jury will improperly use evidence of one crime in considering guilt of another is minimal in this case. To the extent that this danger exists at all, and to the extent that there is a danger of the jury considering the evidence cumulatively, the remedy will be the giving of appropriate jury instructions. United States v. Pacente, 503 F.2d 543, 548 (7th Cir. 1974). Defendant's motion to sever Counts I, II, and III will be denied.

B. Alleged Misjoinder of Counts IV and V

Rule 8(a), F.R.Cr.P., provides as follows:

> Rule 8. Joinder of Offenses and of Defendants.
>
> (a) Joinder of Offenses. Two or more offenses may be charged in the same indictment or information in a separate count for each offense if the offenses charged, whether felonies or misdemeanors or both, are of the same or similar character or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan.

Defendant moves for severance of Counts IV and V on the ground that the joinder of Counts IV and V with the first three counts of the indictment violates Rule 8(a). Defendant's misjoinder argument proceeds as follows: that Counts IV and V are neither of "the same or similar character" nor "connected together" in sufficient fashion to the prostitution-related offenses stated in Counts I, II, and III; that the two groups of offenses are distantly removed in time; and that there will be little "cross admissibility" of evidence between the two

groups of counts.

The government argues in response: that Counts I, II, and III and Counts IV and V are "connected together" for purposes of Rule 8(a) by the commonality of proof between them; that, as a result, there will be extensive cross-admissibility of evidence between counts; and that the time distance between the two groups of offenses is not a substantial factor in this case.

Defendant has failed to provide any significant authority to support his arguments. The government on the other hand, has presented considerable authority and a strong argument in support of the joinder of offenses. An independent analysis of this controversy has persuaded me that Counts I, II, and III and Counts IV and V are properly joined and should be tried together in this case.

It is my view that the offenses charged in the indictment "are based on . . . two or more acts or transactions connected together," within the meaning of Rule 8(a). This conclusion is derived from a recognition of "the extent of evidentiary overlap" between the counts, which is a determinative factor in considering whether Rule 8(a)'s requirements have been satisfied. United States v. Zouras, 497 F.2d 1115, 1122 (7th Cir. 1974).[11/] Moreover, I have recognized that Rule 8 should be construed generously "to allow liberal joinder and thereby enhance the efficiency of the judicial system." United States v. Isaacs, 493 F.2d 1124, 1158 (7th Cir. 1974). In that respect, I have further noted that the word "transactions," as used in Rule 8(a), "contemplates a series of many acts 'depending not so much upon the immediateness of their connection as upon their logical relationship'." Id. (quoting from Moore v. New York Cotton Exchange, 270 U.S. 593, 610 (1926).

11/ An alternative term expressing the same concept in a Rule 8(a) context is "the commonality of proof" between offenses joined in the indictment. United States v. Isaacs, 493 F.2d 1124, 1159 (7th Cir. 1974).

With regard to Count IV (the perjury charge) and Counts I, II and III (the prostitution-related charges), it appears that evidence of defendant's alleged false testimony before the Grand Jury with respect to the extent and nature of his relationship with [redacted] (who ran the Show Bar) may well be admissible as to the prostitution-related charges (arising out of defendant's activities in connection with the Show Bar) as false exculpatory statements evidencing defendant's consciousness of guilt as to the acts alleged in the first three counts. The joinder of the perjury count and the underlying prostitution-related counts is appropriate under these circumstances. There is a logical relationship between these counts, because defendant's alleged perjury relates to his involvement in the activities charged in the first three counts. See United States v. Verra, 203 F. Supp. 87, 91 (S.D.N.Y. 1962); cf., Isaacs, 493 F.2d at 1124 (holding a charge of perjury before a grand jury investigating defendant's corrupt activities to be properly joined with the corrupt activities charges).

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The same analysis and conclusion obtains with respect to Count V (the obstruction charge) and the prostitution-related charges in Counts I, II, and III. The government intends to demonstrate at trial, through the testimony of Patricia Colassaco among other persons, that defendant was aware of prostitution activities at the Show Bar; such evidence will be offered on the prostitution-related counts. It appears likely that evidence of defendant's alleged efforts to influence Colassaco's testimony before the grand jury will be admissible on Counts I, II, and III as showing defendant's consciousness of guilt, on the theory

that such obstructive efforts constituted an admission by conduct of the prostitution-related charges. The joinder of Counts IV with Counts I, II, and III is therefore appropriate, since these acts as well are "connected together." See Zouras, 497 F.2d 1115, at 1122.

Moreover, it appears likely that cross-admissibility of evidence in this case will be mutual; i.e., that evidence pertinent to Counts I, II, and III showing defendant's involvement in prostitution-related activities at the Show Bar will be relevant and admissible on Counts IV and V as tending to provide a motive for the alleged perjury and obstruction. See United States v. Gottfried, 165 F.2d 360, 363 (2d Cir.) cert. denied, 333 U.S. 860 (1948) (noting that "nothing can be more relevant in proving a crime than to show that the accused had a motive to commit it").

It therefore appears that evidence with respect to the various counts will be mutually cross-admissible at trial, and that there is a connection between the alleged "acts or transactions" sufficient to warrant their joinder under Rule 8(a). Defendant's argument that Counts I, II, and III and Counts IV and V are too far removed in time can have little effect upon my conclusions; it is the logical relationship between the counts that is important, not the "immediateness of their connection." Isaacs, 493 F.2d at 1158. Defendant's motion to sever Counts IV and V will be denied.

C. Alleged Prejudicial Joinder of Counts IV and V

As an alternative to his misjoinder challenge to the presence of Counts IV and V in the indictment, defendant has moved for severance of the two counts under Rule 14, arguing that a joint trial of these and Counts I, II, and

III will be prejudiced. Defendant's prejudice argument is based primarily upon his contention that evidence with respect to each count will not be mutually admissible for legitimate reasons at a joint trial. I have, of course, rejected that contention in my decision on defendant's misjoinder claim.

Defendant's concern that the perjury and obstruction charges may inflame the jury and prejudice its fair consideration of the evidence on Counts I, II, and III is one that can be adequately addressed at trial with appropriate jury instructions. United States v. Pacente, 503 F.2d 543, 547 (7th Cir.), cert. denied, 419 U.S. 1048 (1974); see Isaacs, 493 F.2d at 1160; United States v. Papia, 399 F. Supp. 1381, 1388 (E.D. Wis. 1975). Severance of Counts IV and V from the other counts of the indictment is not required, and defendant's motion to that effect will be denied.

ORDER

IT IS THEREFORE ORDERED:

1) that defendant's motion for transfer of trial is DENIED;

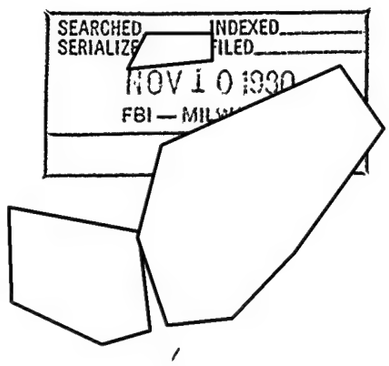
2) that defendant's motion for disqualification of the Honorable Barbara B. Crabb as trial judge is DENIED; and

3) that defendant's motion for severance and separate trial of each of the five counts of the indictment is DENIED.

Entered this 17th day of October, 1980.

WILLIAM L. GANSNER
United States Magistrate

194-35-423



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IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALEX J. RAINERI,

Defendant.

DECISION AND ORDER

80-CR-29

INTRODUCTION

In the decision and order entered in this case on October 3, 1980, the court explained that defendant's pretrial motions had been divided into four units for consideration and disposition. It was the court's intent that the October 3 decision deal with the first unit of defendant's motions -- those relating essentially to discovery matters, including defendant's motion for a bill of particulars. Treatment of this latter motion, however, was inadvertently omitted from the October 3 decision. Accordingly, this decision and order will address both the motion for bill of particulars as well as the second unit of defendant's pretrial motions -- the motion to compel a psychiatric examination of government witness [redacted] b6 b7C

DECISION

Bill of Particulars

The only remaining question under defendant's motion for a bill of particulars relates to Counts I, II, and III, the prostitution-related charges of the indictment.

Defendant seeks an order requiring the government to provide the "exact dates" on which the defendant traveled or used a facility in interstate commerce and on which the defendant performed acts promoting and facilitating an unlawful activity, as alleged in Counts I, II, and III.

Defendant argues that the requested particulars are essential to the preparation of his defense and to his protection against future jeopardy. In opposing the motion, the government argues that a bill of particulars may not properly be used to force disclosure of such detailed evidentiary matter, that "exact dates" cannot easily be fixed, that the requested particulars would impose undue constraints upon the government's proof at trial, and that a bill is unnecessary in light of the substantial discovery already provided to defendant.[1/]

A primary function of a bill of particulars is to sufficiently apprise a defendant of the essential facts of the offenses charged so that the defendant is able to prepare a defense and avoid surprise at trial. United States v. Kaplan, 470 F.2d 100 (7th Cir. 1972), cert. denied, 410 U.S. 966 (1973). The rationale for restricting the use of the bill is to protect the government from forced disclosure of its evidence and its theory of the case, and to avoid "freezing" the government's case as a result of the rule that evidence at trial must conform to the bill of particulars. 8 Moore's Federal Practice §7.06[1], at 7-49 - 7-50 (2d ed. 1980).

1/ In this regard, the United States Attorney has represented by affidavit that he has provided defendant with all available F.B.I. reports of every witness the government intends to call in its case-in-chief to testify as to direct dealings with the defendant.

Though dates of alleged illegal acts may properly be the subject of a bill of particulars, it appears likely that the provision of such particulars in this case would impose a severe burden upon the government by unduly restricting its evidence at trial. Moreover, defendant's need for the specific information appears minimal at best in view of the evidentiary detail already disclosed by the government.[2/] I am satisfied that defendant's legitimate interests in preparing his defense, avoiding surprise, and protecting against exposure to further jeopardy have been satisfied in this case. Binding particularization ought not be required under these circumstances. Defendant's motion for a bill of particulars is denied.

Psychiatric Examination
of Government Witness [redacted]

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Four of the five counts in this case are directly concerned with the relationship between the defendant and [redacted] The first three counts allege defendant's involvement in prostitution-related activities at the Show Bar in Hurley, Wisconsin, an establishment operated by [redacted] The fourth count alleges that defendant committed perjury before the Grand Jury when he denied having traveled with [redacted] to Reno, Nevada, during a three-week period in September and October, 1978. In an affidavit submitted to the court in opposition to defendant's pretrial motions, the United States Attorney has revealed that [redacted] provided the Grand Jury with substantial testimony relevant

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2/ Defendant has all but conceded as much. In his Reply Memorandum, at p. 52, he stated his previous understanding (one not shared by the government) that the government would provide the exact dates, "to the extent that they have not already been provided in the materials given to the defense."

to these first four counts of the indictment. The government doubtless intends that [redacted] play an equally important testimonial role at trial. This is the context in which defendant has moved for an order compelling [redacted] to undergo a mental examination. b6 b7C

Defendant's motion, as it was originally presented and argued, sought an order compelling [redacted] to undergo examination by a psychiatrist in order to determine her competency during the times material to the indictment and at the time of her testimony before the Grand Jury. Defendant furthermore requested that an evidentiary hearing be conducted on his motion at which he might introduce testimony showing that [redacted] mental condition at these times "was not sufficient to lend credibility to her testimony."[3/] b6 b7C

In his original supporting brief, defendant explained that the purpose of the court-ordered examination would be to provide an effective basis for challenging [redacted] credibility at trial. b6 b7C

3/ In an affidavit submitted along with the motion, defense counsel stated that he would introduce testimony at the evidentiary hearing from [redacted] co-workers and employees showing "various behavior patterns of [redacted] which are normally indicative of mental disorder." In a later affidavit defense counsel stated that he had been informed that [redacted] had engaged in the following types of behavior during late 1978 and early 1979: b6 b7C

a. Writing unusual statements on her garage door in lipstick or a similar substance, including "kill[redacted] b6 b7C

b. Alleging that her conduct was being monitored through the electronic media by various agencies.

c. Alleging that her conduct was being monitored through electrical outlets and in other fashions by various agencies.

d. Engaging in the excessive use of alcohol and drugs.

e. Suffering from delusions regarding the burning of the Show Bar.

[Defendant's] Affidavit in Support of Rely Memorandum, at 1. The affidavit does not identify the source of this information.

During the course of briefing on his motion, however, defendant altered the avowed purpose of his motion by raising the additional argument that [redacted] mental condition "is also a matter which relates to her competence to testify in general." As it is now presented, it appears that the requested competence inquiry has three purposes: b6 b7C

-- to determine whether [redacted] was a competent witness at the time of her testimony to the Grand Jury; b6 b7C

-- to determine whether she is competent to testify at trial; and

-- to provide a basis for impeaching her credibility at trial.

At the same time as he raised the additional question of [redacted] competence to testify at trial, defendant also altered the statement of relief sought by his motion. As explained in his reply brief, at 6c-6d, defendant now seeks a pretrial inquiry into [redacted] testimonial competence under Rule 104(a), Federal Rules of Evidence,[4/] or, alternatively, an order requiring her to undergo psychiatric examination. b6 b7C

Defendant's argument in support of his now alternative motion is summarized in the following passage from his reply brief, at 6a:

> The defendant believes that there must be some procedure adopted in this action to determine whether or not [redacted] was and will be a competent witness and to further determine the length to which her credibility can and should be impeached, based upon her mental condition at the relevant times. b6 b7C

4/ Rule 104(a), dealing with preliminary questions affecting evidence at trial, reads as follows:

> (a) Questions of admissibility generally. Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subdivision (b). In making its determination it is not bound by the rules of evidence except those with respect to privileges.

The government argues in opposition that [redacted] competence at the time of her testimony before the Grand Jury is legally immaterial, that any question as to her present testimonial competence is satisfied by the provisions of Rule 601, Federal Rules of Evidence,[5/] and that a psychiatric examination of [redacted] is not needed to provide defendant with grounds for seeking to impeach her credibility at trial, because of the facts defendant already possesses as to her mental condition. b6 b7C

This lengthy review of defendant's description of his motion and of the parties' arguments was necessary in order to clearly define the issues raised for decision. As I view the present controversy arising from defendant's alternative motion, there are two issues to be decided:

1) whether an evidentiary inquiry should be made at this time under the authority of Rule 104(a), Federal Rules of Evidence, to determine whether [redacted] was competent to testify before the Grand Jury and whether she will be competent to testify at the upcoming trial in this case; and b6 b7C

2) as an alternative, whether the court should order [redacted] to undergo a psychiatric examination that may provide evidence on the question of her testimonial competence, past and future, and that may also provide defendant with a basis for attacking [redacted] credibility at trial. b6 b7C

[redacted] testimonial competence at the time of her appearances before the Grand Jury is not, in my view, an appropriate subject of inquiry through either of the means requested in defendant's motion. The government properly argues that such an inquiry could at most result in a post-hoc determination that her testimony before the Grand Jury was neither credible nor competent, and thereby possibly

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5/ In its pertinent part, the Rule provides as follows:

Rule 601. General Rule of Competency

Every person is competent to be a witness except as otherwise provided in these rules. . . .

provide defendant with a claim that the Grand Jury was presented with insufficient evidence to support the pertinent counts of the indictment. Such a claim would have little or no arguable merit. See Costello v. United States, 350 U.S. 359, 363-364 (1956). Defendant's interest in exploring [redacted] mental condition at the time of her testimony before the Grand Jury provides no support for his alternative motion. b6 b7C

The present testimonial competence of [redacted] -- or to state the matter most precisely, her competence to testify at the upcoming trial -- is a legally cognizable subject. In my view, however, the appropriate means of inquiry into this subject is neither a competency hearing before the magistrate at this time nor a court-ordered psychiatric examination of the witness, but instead a preliminary competency hearing, or voir dire examination of the witness, to be conducted by the trial judge at the time of trial under Rule 104, Federal Rules of Evidence. b6 b7C

The government correctly argues that Rule 601 of the Rules of Evidence essentially creates a presumption of every witness' testimonial competence. The notes of the advisory committee on the proposed federal evidence rules also make clear that standards of mental capacity are difficult to apply and rarely result in the disqualification of a witness.[6/] Court practice appears to support this conclusion. I note that defendant has failed to provide

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6/ The pertinent paragraph of the advisory committee note on Rule 601 provides as follows:

> No mental or moral qualifications for testifying as a witness are specified. Standards of mental capacity have proved elusive in actual application. A leading commentator observes that few witnesses are disqualified on that ground. Weihofen, Testimonial Competence and Credibility, 34 Geo.Wash.L.Rev. 53 (1965). Discretion is regularly exercised in favor of allowing the testimony. A witness wholly without capacity is difficult

(footnote continued on page 8)

the court with a single citation to a case involving disqualification of a witness on grounds of mental incompetence, while the government has pointed to several instances of a court finding a witness competent on evidence far more suggestive of mental disorder than defendant has presented by affidavit in this case with respect to [redacted] See, e.g., United States v. Harris, 542 F.2d 1283, 1302-03 (7th Cir. 1976), cert. denied, 430 U.S. 934 (1977); United States ex rel. Lemon v. Pate, 427 F.2d 1010 (7th Cir. 1970). b6 b7C

What defendant desires in this case, however, is an opportunity to rebut the presumption of [redacted] competence. A procedure for such a challenge is provided by Rule 104 of the Federal Rules of Evidence. The necessity of holding such a hearing on the preliminary question of a witness' competency is a matter within the discretion of the trial court. United States v. Peele, 574 F.2d 489, 491 (9th Cir. 1978); United States v. Gerry, 515 F.2d 130, 137 (2d Cir. 1975). In my view, the appropriate time for such a hearing is at trial when the testimony of the challenged witness is to be offered, for the relevant question is whether the witness is presently competent to testify. Therefore, it is also my view that the appropriate decision-maker -- both on the necessity of holding a hearing, and thereafter on the competency question presented -- is the trial judge. Accordingly, defendant's motion for a pretrial determination of witness [redacted] competence to testify b6 b7C b6 b7C

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to imagine. The question is one particularly suited to the jury as one of weight and credibility, subject to judicial authority to review the sufficiency of the evidence. 2 Wigmore §§501, 509. Standards of moral qualification in practice consist essentially of evaluating a person's truthfulness in terms of his own answers about it. Their principal utility is in affording an opportunity on voir dire examination to impress upon the witness his moral duty. This result may, however, be accomplished more directly, and without haggling in terms of legal standards, by the manner of administering the oath or affirmation under Rule 603.

at trial should be denied, but without prejudice to defendant's right to renew his request before the trial judge at the time of trial.[7/]

In view of my conclusion that defendant's motion for a hearing on [redacted] testimonial competence should be denied now, but with leave to renew the motion before the trial judge, there may be no present necessity for deciding defendant's alternative motion for a court-ordered pretrial psychiatric examination of the witness. To the extent that either the trial judge or the defendant might view such an examination as likely to produce evidence relevant and helpful to a competency inquiry at trial, the trial judge will, of course, be free to consider the request at that time. See United States v. Haro, 573 F.2d 661, 666-667 (10th Cir. 1978); United States v. Callahan, 442 F. Supp. 1213, 1221-1222 (D. Minn. 1978). A request for psychiatric examination of a prospective witness, like a request for a competency hearing, is a matter over which a trial court has broad discretion. United States v. Jackson, 576 F.2d 46, 48 (5th Cir. 1978); United States v. Pacelli, 521 F.2d 135, 140 n. 4 (2d Cir. 1975). Moreover, it should be noted that the courts that have considered both issues have regarded voir dire examination of a witness' competence as a clearly preferable alternative to court-ordered psychiatric examination. Haro, 573 F.2d at 666-667; Callahan, 442 F. Supp. at 1221-1222.

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7/ The form of a competency inquiry should be left to the trial judge's discretion, and a decision of the competency issue may be deferred until the judge has not only heard the challenged witness' testimony but has had an opportunity as well to determine whether it is corroborated by the testimony of other witnesses. United States v. Gerry, 515 F.2d at 137. This is additional reason for reserving the [redacted] competence issue for consideration by the trial judge.

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b7C

Defendant's alternative motion for a psychiatric examination has also been asserted, however, as a means by which defendant should be allowed to seek evidence that may provide a basis for attacking [redacted] credibility at trial. To this extent, defendant's alternative motion is essentially a request for discovery. And to this extent, the motion should now be considered. b6 b7C

In deciding such a motion, it is appropriate that a court weigh the defendant's asserted need for such an examination against the witness' justifiable privacy interests and the government's legitimate concerns that such an examination might serve as a means of harassment, and thereby produce a deterrent effect upon the willingness of witnesses to come forward and offer evidence of crime. United States v. Jackson, 576 F.2d at 49.

I have attempted to conduct such a weighing of interests in this case, and it is my conclusion that defendant has failed to show sufficient need for the requested examination. The principal basis of my conclusion is my finding that defendant already possesses considerable information as to [redacted] prior mental condition,[8/] and that he has failed to show or allege that the requested examination would likely produce sufficient additional and admissible evidence so as to outweigh the witness' interest in avoiding a compelled psychiatric examination. Under these circumstances, I agree with the government that the granting of defendant's alternative request would be both unnecessary and unwise. The information already possessed by defendant will likely provide a fully sufficient basis for his efforts to impeach [redacted] credibility at trial. b6 b7C b6 b7C

8/ I refer here both to the information that defense counsel has received from various sources of his own (see n. 3, above) and to information on the witness' past mental condition that has been disclosed by the government.

See United States v. Pacelli, 521 F.2d at 140; United States v. Russo, 442 F.2d 498, 502 (2d Cir. 1971).

ORDER

For these reasons, IT IS ORDERED that:

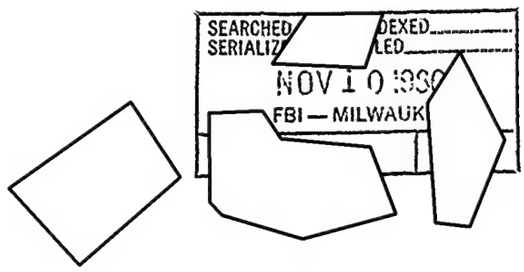
1) Defendant's motion for a bill of particulars stating the exact dates of the acts alleged in Counts I, II, and III of the indictment is DENIED; and

2) Defendant's motion for a pretrial hearing on the testimonial competence of witness [redacted] or, alternatively, for an order requiring [redacted] to undergo a pretrial psychiatric examination is DENIED. b6 b7C

Entered this 7th day of October, 1980.

WILLIAM L. GANSNER
United States Magistrate

194-35-484



b6
b7C

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALEX J. RAINERI,

Defendant.

DECISION AND ORDER

80-CR-29

INTRODUCTION

On June 6, 1980, a five-count indictment was returned against Alex J. Raineri. Count I charged Raineri with causing travel and the use of a facility in interstate commerce in promotion of a business enterprise involving prostitution, in violation of 18 U.S.C. §§ 1952 and 2. Counts II and III charged Raineri with two further instances of causing the use of a facility in interstate commerce in promotion of the same unlawful activity, also in violation of §§ 1952 and 2. Count IV charged Raineri with perjury before the Grand Jury that was investigating possible violations of law in connection with the business enterprise involved in Counts I, II and III, in violation of 18 U.S.C. §1623. Count V charged Raineri with arranging for a prospective witness before the Grand Jury to be threatened in connection with her prospective testimony, in violation of 18 U.S.C. §1503.

Raineri subsequently filed a substantial number of pretrial motions, on which counsel then engaged in extensive and even exhaustive briefing. For the purpose of considering and deciding the motions in an organized fashion, the motions have been divided into four units: 1) those relating essentially to discovery matters; 2) the motion to compel a psychiatric examination of a government witness; 3) those bearing upon the manner and place of trial; and 4) those challenging the charges in this case. The first three units, involving motions which are plainly non-dispositive in character, will be addressed in three separate decisions and orders entered by the magistrate. The fourth unit, consisting of dispositive motions, will be addressed in a separate report and recommendation to the trial judge.

This decision and order is addressed to Raineri's discovery motions. The decisions and orders and the report and recommendation on the remaining motions will follow in order promptly.

DECISION

Defendant Raineri (hereafter defendant) filed the following discovery motions:

1. Motion for Government Production of Handwriting Exemplars.

2. Motion to Inspect Grand Jury Minutes and to Extend the Time within which to Move to Dismiss [until 14 days after decision on inspection motion].

3. Motion for Discovery and Inspection and for Bill of Particulars.

1. Handwriting Exemplars

Defendant's motion requested that the government produce handwriting samples of six named individuals. The court has been advised that the government agreed to furnish samples from all but one of the persons, and that defendant has withdrawn his request as to that individual.

Defendant's motion for production of handwriting exemplars is therefore considered withdrawn.

2. Inspection of Grand Jury Minutes

The court has been advised that the government agreed to furnish defendant with a transcript of all witnesses appearing before the Grand Jury, and that defendant has withdrawn his motion on the basis of this agreement.

This motion is therefore also considered withdrawn.

3. Discovery and Bill of Particulars

Substantial quantities of material and information were sought from the government in defendant's motions for discovery and inspection and for bill of particulars. Through agreement of the parties, however, the great majority of defendant's requests have been either satisfied by government consent to production or withdrawn by defendant.[1/]

1/ The parties' resolution of many of defendant's requests was apparently aided by the considerable amount of discovery earlier provided by the government.

Only the following few matters remain for decision:

A. Medical Reports Relating to [redacted]

Defendant requested that the government provide him with all medical information and reports relating to the physical and mental condition of government witness [redacted] between January 1, 1978 and the present. Defendant regards such information as potentially exculpatory. Whatever controversy remains in this matter in light of prior disclosures should now be resolved. The Clerk will be directed to schedule a prompt hearing before me on this issue. If either party so requests, the hearing will be conducted in camera.

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B. Disclosure of Persons Excused from Grand Jury Service

Defendant's motion for discovery requested that the government provide him with the names and addresses of "any jurors who were excused from the Grand Jury proceedings for any reasons, together with the individual reason for any such excuses." The government consented to the request but represented that it did not know the names and addresses of the excused jurors. The government furthermore reserved the right to oppose disclosure of this information in the event that it were sought by a defense request made to the court. Defendant's reply brief subsequently made such a request to the court, but rephrased it as a request for court-ordered disclosure of information relating to all exclusions from both the Grand and Petit jury panels in this case (Defendant's Reply Memorandum, at p. 2). It is now evident that the request is in aid of a defense motion seeking dismissal of the indictment on the ground that the

court's Plan for the Random Selection of Grand and Petit Jurors operates to deny defendant's right to trial by a fair and impartial jury (Defendant's [Third] Motion to Dismiss). In his original brief in support of the dismissal motion, however, the defendant spoke only of his interest in determining "how many individuals were excused on individual requests from the current jury panel," without distinguishing between Grand and Petit jury panels (Defendant's Memorandum In Support of Motions, at p. 21).

The government, of course, has not yet stated whether it will oppose the disclosure motion now addressed to the court. In opposing defendant's third motion to dismiss, however, the government earlier argued that the number of persons excused from the Grand and Petit jury panels is irrelevant because the court's plan for selecting such panels is clearly constitutional.

The government's position is an imminently practical response to defendant's dismissal motion, and until now I was persuaded to adopt it. After reviewing defendant's varying descriptions of the scope of his discovery request, however, it now appears to me that defendant's dismissal motion -- to which the discovery request is clearly tied -- may be couched in a future conditional tense. That is, the dismissal motion may simply be a reservation of the right to seek dismissal of the indictment in the event that the requested disclosure of persons excluded from the jury panels reveals either a possible violation of the Jury Selection and Service Act of 1968, 28 U.S.C. §§1861 et seq., or arguable unconstitutional discrimination against a class of persons. On the other hand, it may be that the government

was correct in assessing the dismissal motion as a challenge simply to the use of voter lists as the exclusive source of names for jury selection, a challenge to which defendant's disclosure request can have little or no relevance.[2/] Because of defendant's unfortunate lack of precision in arguing the motion, its intent is not clear.

I believe that defendant is entitled to an opportunity to clarify the intent of his dismissal motion and the purpose of his request for disclosure of juror exclusion information. Once he has done so, and once the government has stated its position on disclosure, the request can be decided immediately. This matter will therefore be scheduled for hearing along with defendant's request for disclosure of witness [redacted] health records. b6 b7C

C. Disclosure of Dates of Grand Jury Sessions and Names of Jurors in Attendance

Defendant also requested that the government disclose the dates of the Grand Jury sessions leading to his indictment in this case, along with the names of all jurors attending each session. Defendant explained in his request that without this information he would be unable "to determine whether the Indictment was issued by a minimum of twelve Grand Jurors who attended all sessions investigating this matter."

The government agreed to provide the dates of the Grand Jury sessions, but represented that it "does not know which grand jurors attended which session and is free

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2/ All three types of challenges to the selection of jury panels are noted in United States v. Dellinger, 472 F.2d 340 (7th Cir. 1972). Differences in analysis and treatment of constitutional and statutory jury selection challenges are also helpfully discussed in United States v. Test, 550 F.2d 577 (10th Cir. 1976).

to take any position it wishes as a defense request for the additional information made to the court" (Government's Memorandum of Law, at p. 66). In his subsequent Reply Memoraundum, defendant specifically requested that the court direct the Clerk to disclose to him the names of all grand jurors in attendance at each session leading to his eventual indictment.

Though the government has not had an opportunity to state whether it would oppose the request now before the court, I believe it appropriate that defendant's request be granted. If a review of grand jury attendance records were to reveal that the indictment in this case was concurred in by fewer than twelve grand jurors who had attended all of the sessions at which evidence relevant to the indictment had been submitted (regardless of the number of grand jurors actually concurring at the time of the vote), then defendant may have a colorable claim for dismissal of the indictment under the authority of two recent federal decisions, United States v. Leverage Funding Systems, 478 F. Supp. 799 (C.D. Cal. 1979); United States v. Roberts, 481 F. Supp. 1385 (C.D. Cal. 1980). I note, however, that directly contradictory authority is available in two decisions from the Court of Appeals for the Second Circuit, United States v. Thompson, 144 F.2d 604 (2d Cir. 1944); United States v. Colasurdo, 453 F.2d 585 (2d Cir. 1971).

In granting defendant's request, I in no way mean to pre-judge the validity of any claim that defendant may later assert on the strength of the California district court opinions. To the contrary, I believe that denial of the disclosure request would clearly constitute a pre-judgment

of the merits of the potential claim. Instead, my purpose in granting defendant's request is simply to permit fair inquiry into a source of legitimate legal argument.

In deciding to honor defendant's disclosure request, I have not chosen to ignore the historic policy maintaining the secrecy of grand jury proceedings in federal courts. Accordingly, while defendant is to be provided with the grand jury attendance information he desires, that information will be developed and provided in the following manner: the Clerk of Court is to conduct an examination of the grand jury attendance records in this case to determine the number of jurors concurring in the indictment who attended all of the sessions at which evidence relevant to the indictment was presented. Once having determined this number, the Clerk is to prepare an affidavit stating his findings. His affidavit shall not refer to or disclose the names of any of the grand jurors. The original of his affidavit is to be filed by the Clerk in the record of this case. Copies of the affidavit are to be made available to counsel no later than 9:00 a.m., Tuesday, October 7, 1980.

If defendant desires to submit a motion in this case after obtaining the Clerk's affidavit, such motion is to be served and filed no later than Thursday, October 9, 1980. If a motion is submitted, it will be decided on the basis of oral argument presented at a hearing on the motion to be scheduled for Tuesday, October 14, 1980, at a time to be set by the Clerk.

ORDER

IT IS THEREFORE ORDERED:

1) That the Clerk promptly schedule a hearing before the magistrate on defendant's request for government disclosure of medical reports and information relating to [redacted] and on defendant's request for disclosure of juror exclusion information. b6 b7C

2) That defendant's request for disclosure of grand jury attendance information is GRANTED, in the manner described above.

Entered this 3rd day of October, 1980.

WILLIAM L. GANSNER
United States Magistrate

1-336 (Rev. 10-26-79)

FEDERAL BUREAU OF INVESTIGATION

Washington, D. C. 20537

REPORT

of the

LATENT FINGERPRINT SECTION
IDENTIFICATION DIVISION

November 5, 1980

YOUR FILE NO.
FBI FILE NO. 194-1122
LATENT CASE NO. B-86142

TO: Mr. Frank M. Tuerkheimer
Assistant U.S. Attorney
U.S. Attorney's Office
215 Monona Avenue
Madison, Wisconsin 53701

RE: ALEX J. RAINERI;
CIRCUIT JUDGE
HURLEY, WISCONSIN
HOBBS ACT - OFFICIAL CORRUPTION
INTERSTATE TRANSPORTATION IN AID OF RACKETEERING - PROSTITUTION
INTERSTATE TRANSPORTATION IN AID OF RACKETEERING - BRIBERY; PERJURY; OBSTRUCTION OF JUSTICE

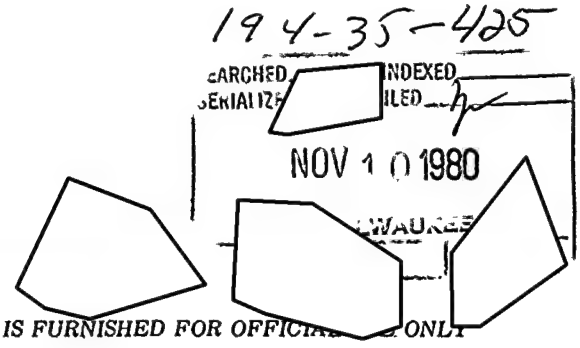
REFERENCE: Telephone call November 3, 1980
EXAMINATION REQUESTED BY: Addressee
SPECIMENS:

Enclosed are the requested photographic copies of the latent fingerprints, fingerprint cards and charted enlargements pertaining to the pending trial in this case.

Enclosures (6)

(2) - Milwaukee (194-35)

194-35-425



b6
b7C

Laboratory Transmittal Form
7-72

FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

To: SAC, Milwaukee (194B-35) November 3, 1980

From: Director, FBI FBI FILE NO. 194-1122

LAB. NO. 01031029 D UY

Re: ALEX J. RAINERI,
Circuit Ct. Judge, Hurley, Wisc.
Hobbs Act - O.C.;
ITAR - Prostitution
ITAR - Bribery; Perjury

OO: Milwaukee

Examination requested by: Milwaukee

Reference: Letter dated October 31, 1980

Examination requested: Document - Fingerprint

Remarks:

Enclosures (2) (2 Lab report)

DO NOT INCLUDE ADMINISTRATIVE PAGE (S) INFORMATION IN INVESTIGATIVE REPORT

194B-35-426

ADMINISTRATIVE PAGE

SEARCHED INDEXED
SERIALIZED FILED
NOV 1980
FBI/DOJ

b6
b7C

7-1b

REPORT of the

FBI LABORATORY

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C. 20535

To: SAC, Milwaukee (194B-35) November 3, 1980

FBI FILE NO. 194-1122

LAB. NO. 01031029 D UY

Re: ALEX J. RAINERI,
Circuit Ct. Judge, Hurley, Wisc.
Hobbs Act - O.C.;
ITAR - Prostitution
ITAR - Bribery; Perjury

Specimens received October 31, 1980

Q479 One-page typewritten appeal from Determination of DILHR Deputy dated 8/1/78, signed [redacted] b6 b7C

Result of examination:

The questioned typing appearing on specimen Q479 has the same horizontal spacing of 10 characters per horizontal inch and type face style as the known typing appearing on specimen K5, and as the questioned typing appearing on specimen Q478, indicating the same type source may have been utilized to prepare these documents.

The questioned typing appearing on specimens Q478, Q479, and on specimen K5 most closely resembles Laboratory standards on file for a "Courier" style of type utilized on the IBM Selectric typewriter.

Specimen Q479 was photographed and will be returned with the result of the requested latent fingerprint examination.

FBI/DOJ

194-35-427

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- [XX] Teletype
- [ ] Facsimile
- [ ] _____

PRECEDENCE:
- [ ] Immediate
- [ ] Priority
- [XX] Routine

CLASSIFICATION:
- [ ] TOP SECRET
- [ ] SECRET
- [ ] CONFIDENTIAL
- [ ] UNCLAS E F T O
- [XX] UNCLAS

Date 10/29/80

FM MILWAUKEE (194B-35) P

TO LAS VEGAS (194B-38) ROUTINE /MEL

BT

UNCLAS

ALEX J. RAINERI, CIRCUIT JUDGE, HURLEY, WISCONSIN; HOBBS ACT - OFFICIAL CORRUPTION; ITAR-PROSTITUTION; ITAR-BRIBERY; PERJURY; OOJ; OO: MILWAUKEE.

RE LAS VEGAS TELETYPE TO MILWAUKEE AUG. 7, 1980.

TRIAL DATE OF CAPTIONED MATTER SET FOR NOV. 24, 1980, AT MADISON, WISCONSIN. USA HAS DECIDED TO CALL AS WITNESS [redacted] b6 b7C [redacted] MONTELATICI AND WINCHELL ACCOUNTING FIRM, 608 LANDER, RENO, NEVADA, TO TESTIFY TO RECORDS OF CAPRI MOTEL, RENO, THAT RAINERI AND ONE OTHER PERSON STAYED AT ROOM 18, CAPRI MOTEL, SEPT. 17-18, 1978. TRIAL SUBPOENA TO FOLLOW.

LAS VEGAS IMMEDIATELY OBTAIN DOCUMENTS FROM [redacted] AND FORWARD VIA REGISTERED MAIL DIRECTLY TO USA, P.O. BOX 112, FEDERAL b6 b7C BUILDING, MADISON, WISCONSIN, 53701, PERSONAL ATTN: USA FRANK M. TUERKHEIMER. UPON RECEIPT, WILL SERVE SUBPOENA UPON [redacted]

BT

(1 [redacted]

[redacted] b6 b7C

Approved: [redacted] Transmitted 002/002 Z Per [redacted]
(Number) (Time)

194-35-428

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- [XX] Teletype
- [ ] Facsimile
- [ ] _____

PRECEDENCE:
- [ ] Immediate
- [XX] Priority
- [ ] Routine

CLASSIFICATION:
- [ ] TOP SECRET
- [ ] SECRET
- [ ] CONFIDENTIAL
- [ ] UNCLAS E F T O
- [XX] UNCLAS

Date 10/31/80

FM MILWAUKEE (194B-35) P

TO DIRECTOR (194B-1122) PRIORITY

BT

UNCLAS

ATTN: FBI LABORATORY

ALEX J. RAINERI, CIRCUIT JUDGE, HURLEY, WISCONSIN; HOBBS ACT - OC; ITAR-PROSTITUTION; ITAR-BRIBERY; PERJURY; OOJ; OO: MILWAUKEE

RE MILWAUKEE TELEPHONE CALL TO SA [redacted] FBI LAB, OCT. 29, 1980. b6 b7C

FORWARDED UNDER SEPARATE COVER OCT. 29, 1980, TO FBI LAB WAS ORIGINAL "APPEAL FROM DETERMINATION OF DILHR DEPUTY" FURNISHED OCT. 29, 1980, BY [redacted] MADISON, WISCONSIN. b6 b7C

THE FBI LAB IS REQUESTED TO COMPARE TYPEWRITING OF THIS DOCUMENT WITH PREVIOUSLY SUBMITTED DOCUMENTS.

IT IS FURTHER REQUESTED THAT LATENT FINGERPRINT EXAMINATION OF THIS DOCUMENT BE IMMEDIATELY CONDUCTED AND ANY PRINTS COMPARED WITH THOSE OF SUBJECT RAINERI.

(1) [redacted] b6 b7C

Approved: W [redacted] Transmitted 023 2200Z Per [redacted]
(Number) (Time)

194-35-429

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- ☐ Teletype
- ☐ Facsimile
- ☐ _____

PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date _____

PAGE TWO MI 194B-35 UNCLAS

EXTREMELY EXPEDITIOUS HANDLING IS REQUESTED IN VIEW OF TRIAL DATE OF NOV. 24, 1980; IT IS REQUESTED THAT RESULTS BE TELEPHONICALLY FURNISHED TO USA, MADISON, WISCONSIN (FTS 364-5158) NO LATER THAN NOV. 4, 1980, AS COURT RULES REQUIRED 20 DAYS NOTIFICATION TO DEFENSE OF ANY LABORATORY RESULTS.

BT

Approved: _____ Transmitted _____ (Number) _____ (Time) Per _____

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/30/80

[redacted] District Attorney of Ashland County, Ashland, Wisconsin, advised as follows: b6 b7C

His District Attorney position is a part-time position allowing him to handle certain private civil matters in addition. Among these has been a small claims case he handled in Iron County Court for Bonded Accounts, the collection agency of the Credit Bureau of Ashland. The collection was a debt of [redacted] doing business as the Show Bar, Hurley, Wisconsin, to Cloverland Homes of Ironwood, Michigan. Before going into court, he met [redacted] b6 [redacted] in the hallway, and she handed him a document which b7C he described as a "demand for a bill of particulars". He identified a copy of a document of the State of Wisconsin, Circuit Court, Iron County, signed by [redacted] November 3, 1978, as a copy of the same document given to him. When he received the document from [redacted] he noticed that it was typed on an electric typewriter in legal form, which he thought was unusual. In their conversation, [redacted] said that the Show Bar was a corporation, and the debt was a corporate debt rather than hers personally. At this time [redacted] had very little knowledge of the merits of the case. It was reportedly a debt from several years before regarding some plumbing work done at the Show Bar.

[redacted] then went into Iron County Circuit Court before Judge Alex Raineri. [redacted] indicated to Raineri that he had received the document from [redacted] and that she had stated that the debt was a corporate debt. He b6 b7C stated that he would talk the situation over with his client. [redacted] stated that he was unsure of the outcome of the case but felt that if the Clerk of Courts' file reflects that he requested a dismissal, then he may have done so. The suit was apparently not reinstated as a corporate debt probably because he was not requested to do so by the Credit Bureau, his client.

[redacted] recalled an incident in around February, 1979, when [redacted] was campaigning for Supreme Court b6 Judge in which he was present at a reception held for her b7C at the Bell Chalet, Hurley. Alex Raineri and [redacted]

Investigation on 10/20/80 at Ashland, Wisconsin File # MI 194B-35-430

by SA [redacted] Date dictated 10/24/80 b6 b7C

were together at this function, drinking heavily, hugging, and appearing very amorous. The exact date of this incident should be known to Paul Sturgul, Iron County District Attorney, who was also present.

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/7/80

[redacted] Bureau of Legal Affairs, Job Service, Department of Industry, Labor and Human Relations (DILHR), 201 East Washington #325, Madison, Wisconsin (608-266-1301), furnished the original of "Appeal from Determination of DILHR Deputy" regarding claimant Patricia Colassaco from the files of DILHR. A copy of this document is attached.

b6
b7C

Investigation on 10/29/80 at Madison, Wisconsin File # MI 194B-35-431

by SA [redacted] Date dictated 11/4/80

b6
b7C

APPEAL FROM DETERMINATION OF DILHR DEPUTY

Claimant	Employer
Patricia Colassaco 124 Lake St. Ironwood, Mi 49938	Ritz Bar 28 Silver St. Hurley, Wi 54534
	Acct. no. 33372
Determination Date 7-20-78	Appeal time 8-3-78

Employer appeals from the findings and determination of the Deputy in the above case.

Employer reasons that his statement opposing the claim with the deputy shows that the employee refuses to report for work, remain at work and to work as required by her employment. Her wilful refusal to obey the rules of work and to work as required is a voluntary termination of employment. Employer stated that employee failed to report for work on time, failed to remain at work for the hours of her shift, left work without waiting for replacements, took days off for personal pleasures when employer needed her at her employment.

Dated this 1st day of August, 1978

b6
b7C

Ritz Bar, Inc,

by

1-336 (Rev. 10-26-79)

FEDERAL BUREAU OF INVESTIGATION

Washington, D. C. 20537

REPORT

of the

LATENT FINGERPRINT SECTION
IDENTIFICATION DIVISION

YOUR FILE NO. 194B-35 (P)
FBI FILE NO. 194B-1122
LATENT CASE NO. B-84261

November 13, 1980

TO: SAC, Milwaukee

RE: ALEX J. RAINERI;
CIRCUIT COURT JUDGE
HURLEY, WISCONSIN
HOBBS ACT - O.C.
ITAR - PROSTITUTION
ITAR - BRIBERY; PERJURY; OOJ

REFERENCE: Letter and teletype 10-31-80
EXAMINATION REQUESTED BY: Milwaukee
SPECIMENS: One-page typewritten Appeal From Determination of Dilhr Deputy, Q479

This report supplements and confirms Bucal to the Madison RA on 11-4-80.

One latent fingerprint and four latent palm prints of value were developed on Q479.

The latent prints are not finger or palm prints of Alex Joseph Raineri.

The result of the laboratory examination is being furnished separately.

The specimen is enclosed.

Enc.

194-35-432

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:	PRECEDENCE:	CLASSIFICATION:
[X] Teletype	[ ] Immediate	[ ] TOP SECRET
[ ] Facsimile	[ ] Priority	[ ] SECRET
[ ] _____	[X] Routine	[ ] CONFIDENTIAL
		[ ] UNCLAS E F T O
		[X] UNCLAS

Date 11/17/80

FM MILWAUKEE (194B-35) P

TO DIRECTOR (194B-1122) ROUTINE MI000L/2222Z

ATTN: FBI LAB; IDENT DIVISION, LATENT FINGERPRINT SECTION.

LAS VEGAS (194B-38) ROUTINE MI0005/2230Z

BT

UNCLAS

ALEX J. RAINERI, CIRCUIT JUDGE, HURLEY, WISCONSIN; HOBBS ACT - OFFICIAL CORRUPTION: ITAR-PROSTITUTION; ITAR-BRIBERY; PERJURY; OOJ; OO: MILWAUKEE.

TRIAL OF CAPTIONED SUBJECT WILL BEGIN AT MADISON, WISCONSIN, MONDAY, NOV. 24, 1980, AND RUN FOR ESTIMATED 2-3 WEEKS. USA ADVISED BUREAU EMPLOYEES NEEDED AS WITNESSES FOR THIS TRIAL WILL BE SA [redacted] RENO RA, LAS VEGAS DIVISION, PROBABLY TO TESTIFY WEEK OF DEC. 1, 1980; SA [redacted] FBI LABORATORY, NEEDED FOR TESTIMONY APPROXIMATELY SAME WEEK THROUGH END OF TRIAL AS DEFENSE INTENDS TO INTRODUCE CONFLICTING HANDWRITING TESTIMONY; AND [redacted] IDENT DIVISION, LATENT FINGERPRINT SECTION, TO TESTIFY LATE WEEK OF DEC. 1, 1980, OR EARLY FOLLOWING WEEK. EACH WITNESS WILL BE

b6
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(1 [redacted]

[redacted]

b6
b7C

Approved: [redacted] Transmitted See Top 002 0232 Per [redacted]

(Number) (Time)

194-35-433

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980-305-750/5402

FD-36 (Rev. 5-22-78)

FBI

TRANSMIT VIA:
- ☐ Teletype
- ☐ Facsimile
- ☐ _____

PRECEDENCE:
- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:
- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date _____

PAGE TWO MI 194B-35 UNCLAS

NOTIFIED TELEPHONICALLY OF EXACT DATE(S) REQUIRED AND WILL APPEAR FOR TESTIMONY AT MADISON, WISCONSIN, UACB.

MILWAUKEE DIVISION WITNESSES WILL BE SA'S [redacted] b6 b7C

[redacted] ALL NOTIFIED LOCALLY.

BT

Approved: _____ Transmitted _____ (Number) (Time) Per _____

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980-305-750/5402

Identification Record Request
FD-9 (Rev. 4-28-65)

INSTRUCTIONS

1. *This form may be submitted in legible hand printing.*
2. *Use separate form for each individual on whom record is requested.*
3. *Make effort to furnish FBI identification number, law enforcement identification number, or military service number.*
4. *Furnish descriptive data and fingerprint classification only when FBI number not available.*
5. *Indicate office for reply in lower right corner only. Also list in lower right corner all offices which should receive copies of available records. Include carbon of FD-9 for each office receiving copies and forward with original to Bureau.*
6. *Do not fill in block in lower left corner.*

To: DIRECTOR, FBI Attention: Identification Division Date 9-17-80

Re ALEX J. RAINERI, Circuit Judge, Hurley, Wis
Hobbs Act-OC (B); ITAR-Proof, ITAR-Bribery, Perjury, OOJ
Field File No. 194-35

Furnish The Known Identification Record of the Following:

Name [redacted] FBI No. Other No. 0

Aliases [redacted]

b6
b7C

Sex	Race	Birth Date	Birthplace	Residence
F	W	[redacted]		Ironwood, Mich Hurley, Wis

Height	Weight	Build	Hair	Eyes	Complexion	Age

Fingerprint Classification

Scars, marks and tattoos [redacted]

b6
b7C

Also Furnish:
- ☐ Photo
- ☐ Fingerprints
- ☐ Handwriting Specimens

Identification Division's Reply 11-2-80
- ☐ On basis of information furnished, unable to identify:
  - ☐ Criminal Files ☐ Civil Files ☐ All Files
- ☒ Record Attached
- ☐ Photo Attached
- ☐ Photo Not Available
- ☐ Fingerprints Attached
- ☐ Handwriting Specimen Attached

Return Reply to:
✓ SAC, SAC, FBI, MILWAUKEE (194-35)
Attn SA [redacted]
w/RYB

Send Copies To:

194-35-435

SEARCHED ___ INDEXED ___
SERIALIZED ___ FILED ___

NOV 19 1980

FBI - MILWAUKEE

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b7C

FBI/DOJ

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

TO : SAC, MILWAUKEE (194-B-35) (P) DATE: November 20, 1980

FROM : SA [redacted] b6 b7C

SUBJECT: ALEX J. RAINERI
CIRCUIT JUDGE
HURLEY, WISCONSIN;
HOBBS ACT - OC;
ITAR - PROSTITUTION; ITAR - BRIBERY;
PERJURY; OOJ

(OO: MILWAUKEE)

Continuous efforts have been made by writer since June, 1980, to locate and interview [redacted] and [redacted] with negative results. As of November 18, 1980, [redacted] Milwaukee, Wisconsin, advised writer that he has not seen nor heard from [redacted] since 1979 and has no idea where she may be currently located. [redacted] described his [redacted] as a wanderer and stated she is not close to the [redacted] and added that he did not know anyone in Milwaukee who might know where she is. b6 b7C

Continuous contact has been maintained with [redacted] who are familiar with [redacted] Recent contacts with these sources indicate [redacted] has not been in Milwaukee since the arrest of [redacted] in the early Spring of 1980. [redacted] advised that [redacted] owned the house located at [redacted] and was supposed to come to Milwaukee in July to dispose of aforementioned property. Source stated that to [redacted] knowledge, [redacted] did not arrive as planned. Both sources state they do not know [redacted] current whereabouts nor could they provide any information on how to locate her. b6 b7C b7D

2 - MILWAUKEE (194-B-35)
[redacted]
(2)

194-35-436
SEARCHED [redacted] INDEXED [redacted]
SERIALIZED [redacted] FILED [redacted]
NOV 20 1980
FBI — MILWAUKEE

b6 b7C

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/21/80

[redacted] Wisconsin, telephone [redacted] was advised of the official identity of the interviewing agent, the nature of the investigation, and furnished the following information: b6 b7C

[redacted] is also known as [redacted] and was born and raised in the Hurley, Wisconsin, area where she lived almost continuously until approximately 1960 or 1961. When she was about 21 or 22 years old and approximately during 1962 or 1961, she left Hurley, Wisconsin, and lived in Las Vegas for nearly one year. She then returned to Hurley, Wisconsin, and lived there a portion of 1962. During 1963 and until 1965 she lived in Milwaukee. About 1965 she again returned to Hurley where she lived for approximately six or seven months. She again left Hurley and lived in the [redacted] Wisconsin, areas from approximately 1965 until 1972. During approximately 1972 or 1973 she again returned to Hurley where she lived for approximately seven months. Since 1973 she has been living in the [redacted] Wisconsin, area. [redacted] stated again that the dates which she furnished above are only approximate periods of time and she could not be more exact or specific at this time because everything happened such a long time ago. b6 b7C

[redacted] recalled that when she was about 16 years old and living in Hurley, Wisconsin, she was acquainted with ALEX J. RAINERI who at that time was the District Attorney in Hurley. RAINERI offered [redacted] a job to work in his office and told her that he would teach her bookkeeping. RAINERI asked her to go out on a couple of dates but she refused. She never dated him. RAINERI led her to believe that he wanted her to be his girlfriend. RAINERI made several passes at her and gave her occasional rides in his convertible. She recalled that on at least one occasion while she was riding with RAINERI in his car he put his hand on her leg and talked to her about having sex. He asked her if she wanted to "fool around." At first [redacted] thought that he was goofing off. RAINERI told her that he knew she had had b6 b7C

Investigation on 11/20/80 at [redacted] Wisconsin File # MI 194B-35-437

by SA [redacted] Date dictated 11/21/80 b6 b7C

sex before. [redacted] said that she had been raped when she was about 14 years old. She told RAINERI that it was true that she had had sex before but when she does have sex it would not be with just anyone it would be with whomever she was married to. RAINERI told her not to be afraid of him because he was not going to hurt her. [redacted] recalled another instance in RAINERI's office in which he had put his hands on her breasts. b6 b7C

When [redacted] was about 21 years old she helped tend bar at [redacted] located in Hurley for a period of approximately one month. During that period of time she was just helping out and tried to get a bartenders license, however, RAINERI, the District Attorney, refused to give her a license. In [redacted] opinion, there was no question that RAINERI ran the town. b6 b7C

During the last period of time, approximately 1973, when [redacted] lived in Hurley she and her husband, [redacted] had attempted to open a bar in Hurley but were refused by both RAINERI and [redacted] (phonetic), a member of the Iron County Board [redacted] was told the reason she would not be allowed to operate a bar was because she was the sister of [redacted] related that [redacted] had a history in Hurley of running a house of ill repute for prostitution. [redacted] and her husband then decided that if they would not be allowed to open a bar they would open a massage parlor. [redacted] asked [redacted] if he could open a massage parlor in Hurley. [redacted] did not give [redacted] an answer right away. [redacted] later talked to [redacted] and asked him the same question, whether or not they could open a massage parlor. [redacted] told her that they could not because she was the sister of [redacted] later talked to RAINERI at the Show Bar and told him that she had talked to [redacted] and that she and her husband were planning to open a massage parlor in Hurley. RAINERI asked [redacted] to give him a sample. [redacted] told RAINERI that she did not do that sort of thing and besides probably if they did open a massage parlor she would probably be at the desk and would not be involved directly with the customers. During this conversation with RAINERI [redacted] recalled asking him where he thought he could be given a sample and he replied in his office. b6 b7C

About this same period of time that the discussion concerning the massage parlor took place between [redacted] and RAINERI, RAINERI asked [redacted] to come over to his office sometime after business hours because his door would always be open for her. b6 b7C

[redacted] recalled overhearing some conversations at the bar between RAINERI and JACK GASBARRI known as "JACKPOT" at the Show Bar in Hurley. She knows they discussed money but she never b6 b7C

overheard enough to understand their conversations. [redacted] heard from some of the bartenders that RAINERI had his hands in the business with "JACKPOT." [redacted] saw RAINERI and "JACKPOT" exchange papers on occasion. "JACKPOT" never wanted to get involved in any problems and frequently sought RAINERI's legal advice. RAINERI never had to pay for his drinks at the Show Bar. When RAINERI offered to pay for his drinks "JACKPOT" pushed his money back towards him. On occasion "JACKPOT" and RAINERI would then go to the back office in the Show Bar and continue their drinking and discussion. b6 b7C

[redacted] believed that "JACKPOT" never was involved in any prostitution activities at the Show Bar and [redacted] believed there was no organized prostitution occurring either in the back room of the Show Bar or the upstairs area in which the entertainers and show girls lived. [redacted] also recalled that on some occasions "JACKPOT" even fired girls who attempted to carry on prostitution activities at the Show Bar. b6 b7C

[redacted] stated that from her knowledge she did not believe RAINERI was involved in any way with the hiring or firing of entertainers because none of the girls ever mentioned RAINERI in their conversations. [redacted] believed that RAINERI did not want anything to do with prostitution and was against it. b6 b7C

[redacted] stated that she had talked to her brother, [redacted] shortly before his death which was two and one-half months ago and even though he did not personally like RAINERI he had talked about attending some of the hearings involving RAINERI in order to speak on his behalf because he did not think RAINERI was involved in the type of activities he was being accused of. b6 b7C

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Witness says Raineri kept prostitute funds

By ELDON KNOCHE
Sentinel Madison Bureau

Madison — The operator of a former Hurley bar testified in Federal Court Monday that Iron County Circuit Judge Alex Raineri kept most of the money the bar took in from prostitutes.

Cira Gasbarri also said the judge encouraged her to expand prostitution activity at the Show Bar.

"He told me (to) put the booths back in and let the girls mingle with the customers," she said, adding men took women into the booths for sexual gratification.

Raineri, 62, is charged with three counts of promoting prostitution, one count of lying to a federal grand jury and one count of obstructing justice by threatening a witness.

He has pleaded not guilty to all charges.

Questioned stability

In the first day of the trial, defense attorneys Eugene Linehan of Wausau and Daniel Linehan of Madison alleged that Ms. Gasbarri is mentally unstable.

In cross-examination, Eugene Linehan pulled a small pistol out of a box and asked her whether she had used it to fire a shot at Raineri after the Show Bar burned to the ground in April 1979.

She denied it.

She also denied trying to kill Raineri with her car, said she never told anyone she had attended her own funeral and claimed she never ripped the wire out of her thermostat at home or ordered anyone to remove the heating registers there.

'Came to be lovers'

She did confirm she entered a California mental hospital in 1979 because she was in a "state of depression." She said the admittance was voluntary.

(Indicate page, name of newspaper, city and state.)

A-1

MILWAUKEE SENTINEL
MILWAUKEE, WISCONSIN

Date: 11/25/80
Edition: FINAL

Title:

Character:
or
Classification: 194-35
Submitting Office:
MILWAUKEE

194-35-438

INDEXED
FILED

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b7C

FBI—MILWAUKEE

Ms. Gasbarri, 45, said she was born in Cuba and came to Hurley as a dancer at the Club Carnival in the early 1960s.

She later married the club's owner, Jack Gasbarri, who died five years ago.

After that, she testified, she and Raineri "came to be lovers."

However, the relationship soured by 1979 and "I don't care for him," she told US Atty. Frank Tuerkheimer in court.

Ms. Gasbarri, who now lives in North Hollywood, Calif., told the jury of eight men and four women how the prostitution trade and finances were handled at the Show Bar.

She said men paid from $35 to $50 for a bottle of chilled champagne, the price allowing them to go into a booth with a woman.

The woman would get to keep from $7.50 to $10 of the fee, she said.

She later said that sexual intercourse also occurred, although it was unclear whether that happened in the booths or "upstairs."

She said in the summer of 1978, about six months after Raineri became judge, he encouraged her to allow prostitution upstairs.

Wanted strip club

"He said, 'Let the girls go up there so we keep them off the streets," Ms. Gasbarri testified.

She said that from 1976, when she came back from a stay in California where her mother lives, and 1979, she saw Raineri nearly every day.

When she first returned to run the business her husband had owned, she said, she wanted to make the bar into strip club, without prostitutes.

But under Raineri's encouragement, she allowed prostitution, and "the girls started working like they used to do," she said.

$50 a day

It was on weekends, she said, that she and Raineri would empty the proceeds from the box in the women's dressing room where the prostitutes deposited the bar's share of the earnings.

"He usually kept it," Ms. Gasbarri said, adding that Raineri gave her $50 a day.

She said he told her not to worry about law enforcement people raiding the place because: "They have to come to me first."

Before he became judge, Raineri was Iron County district attorney from 1962-'78.

In an opening statement and through testimony of Ms. Gasbarri, Tuerkheimer spoke of and presented exhibits that he said showed Raineri gave her a $1,000 check in September 1977, which she deposited for the Show Bar.

Helped hire strippers

Later, under questioning from Eugene Linehan, she identified a note she signed for a $1,000 no-interest loan from Raineri.

Ms. Gasbarri testified Raineri helped in the hiring and firing of strippers, wrote checks (which she signed) to most of the bar's suppliers and got members of a corporation holding the bar's liquor license to sign the application by giving them $20 each and drinks.

She also said Raineri placed a classified advertisement in the Ironwood (Mich.) Daily Globe for a female bartender.

Reading unemployment compensation documents that Ms. Gasbarri claimed Raineri had written for her, Tuerkheimer asked her, "Could you write something like that if you had to do it on your own?"

"No sir," she replied.

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Testimony ties judge to tavern role

By Richard C. Kienitz
Journal Madison Bureau

Madison, Wis. — The former owner of the Show Bar in Hurley told a Federal Court jury here Monday that Iron County Circuit Judge Alex Raineri helped her operate the bar and kept money from prostitutes there.

Cira Gasbarri, 45, who now lives in California, said Raineri, 62, "used to pay me $50 a night." She said that after the death of her husband, Jack, in 1975, she and Raineri had what US Atty. Frank Tuerkheimer described as a "man and woman relationship."

Gasbarri was the first of 25 to 30 witnesses Tuerkheimer said he would call to prove five federal charges against Raineri.

Raineri is charged with three counts of participating in a business involving prostitution across the Wisconsin-Michigan state line and one count each of perjury before a federal grand jury and threatening a grand jury witness.

He has pleaded not guilty, but the Wisconsin Supreme Court has suspended him without pay until the trial is completed. Before his election to the bench in 1977, he had been a state assemblyman from Iron and Vilas Counties and for 17 years was part-time Iron County district attorney.

The trial is expected to last at least three weeks, but Federal Judge Barbara B. Crabb said she would schedule Thanksgiving and Christmas holiday breaks if necessary for the eight-man, four-woman jury selected Monday.

Gasbarri said she tried to eliminate prostitution at the bar and operate it as a strip show, but she said Raineri told her to reinstall the booths in which customers could engage in sexual activity with dancers.

She said customers paid $30 to $50 a bottle for champagne that cost only $3 or $4.

In exchange for his share of the money that the dancers put in a box and that was collected on weekends, Raineri was to provide protection and to see that the Show Bar never was raided, Gasbarri said.

She quoted him as saying, "Let the girls go up there so we can keep them off the street."

The Gasbarris and Raineris had been family friends until Cira Gasbarri and Doris Raineri had a falling out, Tuerkheimer said in his opening statement.

Daniel Linehan of Madison, who with his brother, Gene Linehan of Wausau, are the defense attorneys, said Gasbarri grew to hate the judge when she began having delusions that he was trying to take the business away from her and have her killed. He described her as "paranoid and out of touch with reality."

Gasbarri came to Hurley from Cuba by way of Florida in the 1960s as a dancer at the Club Carnival, which her late husband also owned. After he died, she and Raineri "came to be lovers" and she saw him almost daily, she said.

She denied accusations that she had tried to kill Raineri.

(Indicate page, name of newspaper, city and state.)

A-10

MILWAUKEE JOURNAL
MILWAUKEE, WISCONSIN

Date: 11/25/80
Edition: LATEST

Title:

Character:
or
Classification: 194-35
Submitting Office:
MILWAUKEE

194-35-439

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Judge was adviser in tavern affairs, accountant testifies

By Anita Clark
Of The State Journal

The former accountant for the Show Bar in Hurley testified Tuesday that questions about financial matters often were answered by Iron County Circuit Judge Alex J. Raineri.

Tavern owner Cira Gasbarri sometimes answered his questions but often she referred them to Raineri, said Barney Hinch, a former Bessemer, Mich., accountant who now works in Saudi Arabia.

Raineri, 62, who has been suspended from the bench, is on trial in U.S. District Court in Madison on five counts relating to prostitution at the Show Bar and allegations he lied to a federal grand jury and tried to threaten a witness.

Testimony will continue today before Judge Barbara Crabb.

"There was more money being spent compared to the amount of money coming in," said Hinch, who questioned Raineri about the discrepancies.

"There was simply no answer that I felt was a justifiable explanation to it," he said. "He (Raineri) primarily told me it was nothing that I was to be worried about."

Hinch said he also discussed sales and income taxes, Social Security payments, unemployment payments and other financial matters with Raineri after being hired in mid-1976.

His testimony drew frequent objections from defense attorney Daniel Linehan, who complained that dates of conversations were unknown and that the information was irrelevant.

The defense contends Raineri merely performed legal services for the tavern as he had before the 1975 death of Mrs. Gasbarri's husband, Jack.

In other testimony, Mrs. Gasbarri's niece, Angela Acebal, 21, North Hollywood, Calif., said Show Bar dancers took male customers upstairs and returned a key and envelopes of money to her when she tended bar in late 1978.

This occurred "about 10 or 15 times a night," Ms. Acebal said in response to questions from U.S. Attorney Frank Tuerkheimer.

As a guest at her aunt's home, she said she saw Raineri there on weekday evenings and "on weekends he was there from the early morning to late in the evening."

She saw her aunt and Raineri in bed watching television and once saw Raineri in the morning wearing "just his underwear," she said.

Under cross examination by Linehan, the young woman said her aunt was committed to a California mental institution after attacking her last Nov. 30 with a pair of scissors.

Mrs. Gasbarri was behaving strangely in the spring of 1979, and believed "everyone was out to kill her," Ms. Acebal said. Asked to be more spe-

(Indicate page, name of newspaper, city and state.)

D-1

WIS. STATE JOURNAL
MADISON, WISCONSIN

Date: 11/26/80
Edition: METRO

Title:

Character:
or
Classification: 194-35-4440
Submitting Office:

MILWAUKEE

b6
b7C

SEARCHED.... INDEXED....
SERIALIZED.... FILED....

FBI — MILWAUKEE

cific about "everyone," she said, "Well, Mr. Raineri for one."

Defense attorneys contend Mrs. Gasbarri is mentally unstable, grew to hate Raineri and was out of touch with reality at times of events she is describing in court.

In her testimony, Mrs. Gasbarri said she voluntarily admitted herself in January to a California mental health center for treatment of severe depression.

Spending most of Tuesday on the witness stand responding to defense questions, Mrs. Gasbarri provided further details on Raineri's involvement in the tavern.

She said he advised her to have a Show Bar dancer make a sworn statement "that she wasn't brought to Hurley by me or by anyone as a prostitute, just as a dancer."

That followed the dancer's arrest on jewelry theft charges and her threat to talk to the government if Mrs. Gasbarri did not bail her out, according to testimony.

Mrs. Gasbarri also described a trip to Reno, Nev., about which Raineri is accused of lying to a federal grand jury, and said an acquaintance threatened her life during the trip.

Defense attorney Gene Linehan objected several times when Mrs. Gasbarri offered more information than he sought, sometimes volunteering statements about Raineri.

She said Raineri protected the tavern because he knew when state officials would be in Hurley, "especially when he was D.A. (district attorney)."

Mrs. Gasbarri denied Monday that she had driven her car into Raineri's in early 1979, but testified Tuesday an accidental collision had occurred.

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Judge got sex money, bar owner testifies

By Anita Clark
Of The State Journal

The former owner of the Show Bar in Hurley testified Monday that Circuit Judge Alex J. Raineri received money earned by prostitution there and helped her operate the tavern.

"He used to pay me $50 a night when I worked" from the money collected from prostitutes, Cira Gaspari, the key prosecution witness in Raineri's trial in U.S. District Court, said.

Raineri, a judge since 1978 and previously the Iron County district attorney for 18 years, was indicted in June by a grand jury on three counts of involvement in prostitution through interstate activities, one count of perjury and one count of trying to threaten a grand jury witness.

Since being indicted, he has been suspended without pay by the state Supreme Court and accused of unethical conduct by the State Judicial Commission.

Cross-examination of Mrs. Gaspari began late Monday and will continue today before U.S. District Judge Barbara Crabb and a jury of eight men and four women, plus four alternate jurors.

The trial is expected to last three to five weeks.

Mrs. Gaspari, 45, now living in California, said she and Raineri became lovers after the November 1975 death of her husband, Jack. Before that, the Raineris and Gasparis were "very close friends," she said.

Raineri was to protect the Show Bar and help with its operations in return for "his cut" of the money, Mrs. Gaspari testified.

After taking over the tavern, she said, she tried to eliminate prostitution by ordering removal of booths where customers engaged in sexual activities with dancers after buying a bottle of champagne for $30 to $50.

Raineri, however, told her to put the booths back in the tavern and she did so, she testified.

Show Bar prostitutes put money in envelopes in a box in their dressing room, where she and Raineri collected it on weekends, she said. He also received the weekend bar income, she said, while weekday money went to her.

The tavern was never raided and, although it occasionally operated after hours, was never cited by authorities, she said. It was destroyed by fire in April 1979.

U.S. Attorney Frank Tuerkheimer asked Mrs. Gaspari if she likes Raineri.

"I don't care for him," she replied.

In cross-examination, defense attorney Gene Linehan unwrapped a small handgun and asked if it belonged to her. She said it did not, but named its owner and said she last saw it around Christmas 1978.

She denied trying to shoot Raineri with the gun and repeatedly said, "No, sir," to Linehan's questions about whether she once rammed Raineri's car, fired a gun in his judicial chambers or told a priest she tried to kill Raineri.

Several of those incidents were mentioned in the opening statement of defense attorney Daniel Linehan (Gene's brother), who said Mrs. Gaspari used a revolver to take a shot at Raineri in late 1978 or early 1979.

He said Mrs. Gaspari has a history of mental illness, was paranoid and "not in touch with reality" during times critical to the criminal charges and hates Raineri.

(Indicate page, name of newspaper, city and state.)

D-1

WIS. STATE JOURNAL
MADISON, WISCONSIN

Date: 11/25/80
Edition: METRO

Title:

Character:
or
Classification: 194-35-441
Submitting Office:
MILWAUKEE

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b7C

SEARCHED ..... INDEXED .....
SERIALIZED ..... FILED .....
FBI — MILWAUKEE

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Agents identify phone voice as Raineri's

By Richard C. Kienitz
Journal Madison Bureau

Madison, Wis. — State beverage tax enforcement agents testified Monday in Federal Court that a voice they heard in a 1979 telephone conversation trying to discourage them from confiscating liquor from a Hurley tavern was that of Iron County Circuit Judge Alex Raineri.

"The person said in a chuckling voice: 'You agents are not going to get anywhere in Iron County,'" James Boatman, a state Department of Revenue agent, testified.

Raineri, 62, has been indicted by a federal grand jury on three counts of participating in a business, the Show Bar in Hurley, involving prostitution across the Wisconsin-Michigan state line and one count each of perjury and threatening a prospective witness.

He has pleaded not guilty but has been suspended without pay until completion of the case being heard before Federal Judge Barbara A. Crabb and a 12-member jury. He contends that any connection with the bar was only as a family friend.

Invoices missing

Ted Seefeldt, Rhinelander, also of the Department of Revenue's beverage tax bureau, said he and Boatman, of Marinette, had phoned the Show Bar on March 13, 1979, after they found that invoices were missing for 179 bottles of liquor. They also found two bottles of liquor that appeared in a field test to be off-color.

Seefeldt said that at the time he assumed that the call had been made to Albert Stella, former Hurley police chief who held the license for the Show Bar before it burned down in 1979. Boatman said he called the person Stella and was not corrected.

Stella, 72, who also was a $60-a-week janitor at the bar, testified that he had never had such a call from the state agent.

Agents identify voice

On Monday, the two agents identified Raineri's voice from among four tapes made by FBI agent Thomas Burg of Wausau with people using identical words as those in the March 13 call. The tapes were of Raineri, Stella and two FBI agents.

Seefeldt said the voice told him that the agents had not given Cira Gasbarri, 65, owner of the bar, identical samples of the liquor tested and "our constitutional rights are being violated." He said the voice suggested that the samples could be tampered with.

Boatman quoted the chuckling, businesslike voice as saying, "You agents are not going to get anywhere in Iron County." Boatman said the voice added, "I know Mr. Chayka," referring to Gordon Chayka, head of the beverage tax bureau, and then said, "I will call him tomorrow and get this straightened out. The invoices will be there tomorrow."

The agents said they returned the next day and were given invoices, with about 5 bottles still not accounted for. They ordered that none of the liquor be sold until the invoices were there.

Brandy confiscated

Notified early in April that the invoices were there, Seefeldt said, he returned and found all but those for nine bottles of brandy, which he confiscated. Seefeldt said Gasbarri was upset and called Raineri, who asked that the brandy be left in the tavern and challenged Seefeldt's authority to confiscate it.

Gasbarri was under investigation by the Revenue Department when fire destroyed the Show Bar in April 1979, according to Boatman. Gasbarri testified last week that when Raineri was district attorney, he warned her when state agents were in town because his office was notified in advance. She said the Show Bar was never raided or cited for being open after hours while Raineri was DA.

Gasbarri also testified that Raineri often counted money earned by dancers at the bar for prostitution. She said Raineri had lent her money, helped her with the tavern's bookkeeping and had given her legal advice.

Under cross-examination, both agents said they saw no evidence of prostitution during their visit.

(Indicate page, name of newspaper, city and state.)

A-12

MILWAUKEE JOURNAL
MILWAUKEE, WISCONSIN

Date: 12/2/80
Edition: IA TEST

Title:

Character:
or 194-35
Classification:
Submitting Office:
MILWAUKEE

194-35-442

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____
DEC , 1980
FBI — MILWAUKEE

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FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Judge says trial is draining his pocketbook

NORRIS KLESMAN

Iron County Judge Alex Raineri leaves the federal courthouse in Madison.

The Associated Press

Circuit Judge Alex Raineri says his trial on prostitution-related charges has affected his health and that he does not know how he can recover financially from stiff legal expenses.

Raineri, who was suspended from the bench after pleading innocent to the charges, said he has not had time to think about what he will do if he is acquitted.

Raineri, 62, is on trial in U.S. District Court in Madison on a charges of promoting prostitution, lying to a grand jury and threatening a witness.

The most significant fallout from the indictments has been on him personally, Raineri said in an interview with Dennis McCann of the Janesville Gazette.

"There is a lot of embarrassment, you know, because in 35 years of professional life I've never had this before," Raineri said. "It's tough, all that pressure on you."

Raineri was district attorney for Iron County for about 18 years before becoming a judge in 1977.

He said it felt strange to be "on the other side of the fence" as a defendant.

The judge said his family "is suffering the consequences of all this, too, just as badly as I am. Although they have expressed their faith in me," he said. "It hasn't breached our family relationship."

Raineri said he is convinced he will be found innocent.

"Sure, I have faith in the system," he said. "I realize there are weaknesses in it but it's the only system we have. And everybody else is bound by it, so I guess I am, too."

The judge said he does not believe allegations of prostitution at the Show Bar will renew Hurley's reputation as a wide open city where illicit activities are winked at by residents. Activities at the former nightclub could not be characterized as "organized prostitution," he said.

After he was suspended, Raineri filed a motion with the State Supreme Court asking that his salary be continued so he could afford to live and pay legal fees during the trial.

Circuit judges draw about $46,000 a year.

The motion was denied. And the decision hurt, Raineri said.

(Indicate page, name of newspaper, city and state.)

A-27

CITY TODAY
MADISON, WISCONSIN

Date: 12/26/80
Edition: DAILY

Title: 194-35

Character:
or
Classification:
Submitting Office:
MILWAUKEE

194-35-443

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____

DEC 4 1980

FBI—MILWAUKEE

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"I was surprised by it because it was almost a determination of guilt at that time when I'm only charged," he said. "I'm not guilty of anything until proven guilty. I felt it was kind of drastic."

Raineri said he is borrowing money, mortgaging property, and selling assets to make ends meet.

Each of the counts carries a maximum penalty of five years in prison. Raineri said he is frightened at the possibility he will be convicted.

If acquitted, he still would face two counts of misconduct filed by the State Judicial Commission. His attorney, Gene Linehan, said the misconduct charges are minor compared to the federal charges.

FD-352 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Accountant says judge took interest in tavern's books

By CLAIRE SIMMONS
The Associated Press

Judge Alex Raineri helped the owner of a Hurley tavern make business decisions, consulting directly with the tavern's accountant, the former accountant told a U.S. District Court jury Tuesday.

Barney Hinch, now an accountant for a firm in Saudi Arabia, testified that in mid-1976 the Show Bar's owner, Cira Gasbarri, and Raineri came to his office and asked him to do the tavern's bookkeeping.

Hinch testified that over the next two years, he discussed Social Security taxes, umemployment compensation, and cash flow with the Circuit Court judge, often going to his office or calling him directly on the telephone.

Hinch was the prosecution's third witness in Raineri's trial, which began Monday before Judge Barbara Crabb.

Raineri, 62, who was Iron County district attorney for about 18 years before becoming a judge in 1977, is accused of three counts of using interstate facilities to promote prostitution in August and September, 1978, one count of lying to a federal grand jury and one count of threatening a witness.

(Indicate page, name of newspaper, city and state.)

A-27

CITY TODAY
MADISON, WISCONSIN

Date: 11/26/80
Edition: DAILY

Title:

Character:
or
Classification: 194-35
Submitting Office:
MILWAUKEE

194-35-494

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____

DEC 1 1980

FBI-MILWAU

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He has pleaded innocent. He was suspended from the bench after being indicted in June.

Hinch testified that when he told Raineri that Social Security taxes should be deducted from wages paid to dancers at the tavern, Raineri told them the women "were considered self-employed people."

Gasbarri's niece, Angela Acebal, 21, of North Hollywood, Calif., testified that Raineri often answered Gasbarri's business questions and helped her count money at the Gasbarri home.

Acebal said she visited her aunt for five weeks in 1978 and worked at the Show Bar, often giving a key to upstairs rooms to prostitutes.

She testified that during her stay, Raineri was at Gasbarri's house often, most weekday evenings and from early morning to late evening on weekends.

She said she saw her aunt and Raineri in bed together watching television, and that she once saw Raineri wearing only underwear at the home.

Acebal testified that she later had a fight with her aunt, and that Raineri gave her $180 to fly home to California.

She said she returned to Hurley in April, 1979, in an unsuccessful attempt to persuade Gasbarri to travel with her to California.

She said Gasbarri told her that she and Raineri had a falling out because the judge was having an affair with a woman bartender.

She said her aunt thought that "everyone was out to kill her."

"Did she mention any names?" U.S. Attorney Frank Tuerkheimer asked.

"Well, Raineri for one," Acebal said.

Acebel said Gasbarri also felt Raineri set fire to the tavern, which was destroyed by fire in April, 1979.

Gasbarri had testified that when Raineri was district attorney, he warned her when state investigators were in Hurley because they contacted his office before conducting investigations.

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Accountant testifies judge told him to lie

The Associated Press

An accountant has testified that Iron County Circuit Judge Alex Raineri told him to lie if anyone asked whether the judge was involved in the business activities of Hurley's notorious Show Bar.

Ranieri has pleaded innocent to three charges of promoting prostitution, one count of lying to a federal grand jury and one count of threatening a witness. The trial, which began last Monday, was recessed until next Monday after accountant Barney Hinch, Bessemer, Mich., testified.

Hinch did the books for the Show Bar from 1976-79.

Hinch Wednesday said Raineri phoned him last March and asked "how my wife and children were." Then Raineri told him to lie if anyone asked him about his alleged involvement with Show Bar finances, Hinch said.

Raineri is alleged to have handled some receipts from prostitutes who frequented the bar, although he told a grand jury he had nothing to do with the bar's financial matters.

In the phone conversation with Raineri, Hinch said, the judge told him to say, if asked, that he had no knowledge whether Raineri was involved in activities of the Show Bar.

"I was rather stunned," said Hinch, who is working for a transportation company in Saudi Arabia.

He said he conferred frequently with Raineri about business at the Show Bar.

Raineri became a judge in January, 1978. He was district attorney from 1950-52 and 1962-78. He also served two terms in the Wisconsin Assembly.

(Indicate page, name of newspaper, city and state.)

A-2

CAPITAL TIMES
MADISON, WISCONSIN

Date: 11/27/80
Edition: DAILY

Title:

Character:
or
Classification: 194-35
Submitting Office:
MILWAUKEE

194-35-445

SEARCHED ___ INDEXED ___
SERIALIZED ___ FILED ___

DEC 4 1980

FBI-MILWAUK

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FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Milwaukee prostitute testifies in Raineri trial

By ELDON KNOCHE
Sentinel Madison Bureau

Madison — A Milwaukee prostitute testified Tuesday in Federal Court that she told an FBI agent in April that one of her customers was a prominent Milwaukee County circuit judge who was under investigation.

Yvonne Spears, '21, awaiting sentencing for being party to the sale of heroin in Milwaukee County, testified for the prosecution in the prostitution trial of Iron County Circuit Judge Alex Raineri.

She admitted to defense attorneys she told the FBI that other public officials were her customers, including policemen from Green Bay and Bessemer, Mich., a judge and a mayor from northern Wisconsin and a district attorney from Michigan.

Federal Judge Barbara Crabb agreed with US Atty. Frank Tuerkheimer's objection to permitting Ms. Spears to give the name of the Milwaukee County judge.

Ms. Spears denied suggestions by Raineri's attorney, Daniel Linehan, that she made false statements to FBI agent Thomas Burg because she thought she could make a deal on her own criminal charges.

According to statements by Linehan, Tuerkheimer or Ms. Spears, she pleaded guilty to one charge, four related felony charges were dismissed and her bail was reduced from $25,000 to a signature bond.

She was in jail from March to September, including the time she spoke with Burg.

Ms. Spears said Raineri was not one of her customers.

Raineri has pleaded not guilty to three counts of promoting prostitution at the Show Bar, one count of lying to a federal grand jury and one count of threatening a witness.

Tuerkheimer told the court he has agreed to write Milwaukee County officials to tell them the value of Ms. Spears' testimony.

The US attorney said Ms. Spears was given immunity from prosecution on her prostitution testimony by both the federal government and Iron County.

Linehan said Ms. Spears, in talking to Burg, had listed "a number of big names you slept with."

When Linehan asked for names, Tuerkheimer objected. After the lawyers conferred with Judge Crabb, Linehan asked Ms. Spears:

"During your conversation with Mr. Burg, you named as one of your customers a Milwaukee County circuit judge, didn't you?"

"Yes," she answered.

After getting her to agree that the Milwaukee judge had been under investigation, he asked, "You thought this individual was Cira Gasbarri's (owner of the Show Bar) boyfriend?"

"Yes," she replied.

Ms. Spears also admitted telling the FBI she saw the judge in Hurley but added she could have been mistaken.

"At the time I had seen him, he had covers over his head," she said.

Ms. Spears, who said she became a prostitute at age 15, stated she worked as a stripper and prostitute at the Show Bar most of the time between June 1978 and January 1979.

(Indicate page, name of newspaper, city and state.)

A-13

MILWAUKEE SENTINEL
MILWAUKEE, WISCONSIN

Date: 12/3/80
Edition: FINAL

Title:

Character:
or
Classification: 194-35
Submitting Office:
MILWAUKEE

194-35-446

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____

DEC 4 1980

FBI - MILWAUK

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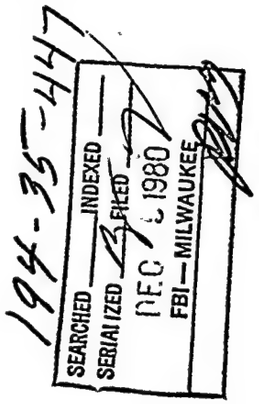

Judge tried to deter probe, investigators say

By Claire Simmons
Associated Press

A tape of Judge Alex Raineri's voice was identifed Monday by two investigators as the voice they heard in a 1979 telephone conversation trying to discourage them from confiscating liquor from a Hurley tavern.

"The person said in a chuckling voice: 'You realize that you're not going to get anywhere in this county,'" James Boatman, a state Department of Revenue agent, said.

Boatman's testimony came in the fourth day of Raineri's U.S. District Court trial on charges of having promoted prostitution in his northern Wisconsin community.

Raineri, 62, who was Iron County district attorney for about 18 years before becoming a judge in 1977, has been suspended from the bench since June after being indicted.

He is accused of three counts of using interstate facilities to promote prostitution in August and September 1978, one count of lying to a federal grand jury, and one count of threatening a witness.

Boatman testified that on March 13, 1979, Cira Gasbarri, owner of the Show Bar in Hurley, handed him the telephone and told him that the other party was Albert Stella, the tavern's corporation agent.

The person with whom he spoke did not identify himself, Boatman said.

Boatman said when he identified one of his superiors as Gordon Chayka of the State Revenue Department, Raineri said: "I'll call Chayka in the morning and get this all straightened out."

While he and fellow agent Ted Seefeldt made a routine inspection of the Show Bar, Boatman said, they tested some bottles of liquor and discovered proof and coloration differences, confiscating two bottles for tests at the state Crime Lab in Madison.

Boatman said Mrs. Gasbarri could not provide enough invoices to account for the amount of liquor at the Show Bar.

Mrs. Gasbarri was under investigation by the Revenue Department when the Show Bar was destroyed by fire in April 1979, he said.

Stella testified he did not have a telephone conversation with the investigators concerning the missing invoices.

Stella, a former Hurley police chief, denied seeing any evidence of prostitution at the Show Bar during the seven years he was a janitor at the tavern.

He said he quit his job about three days before the bar burned down because "I couldn't get along with Cira."

When he was asked why, he said: "Well, to me, I think she was drinking too much," adding that he brought a bottle of brandy over to her house every day for about a month before the fire.

The tavern's two other corporate officers, William Mattson of Hurley and Whitney Osborne of Ironwood, Mich., testified they did not know they were listed as Show Bar officers until they were told by the FBI this year.

Mattson, who worked briefly as janitor at the tavern, testified Raineri asked him to sign some papers in 1978 or early 1979, but he did not know what he was signing.

Osborne testified Raineri once helped him with his income tax and gave him several papers to sign but he did not know if any of those papers pertained to the Show Bar.

Earlier in the day, the Show Bar's former accountant, Barney Hinch, testified Raineri told him to deny the judge had attended the tavern's business meetings.

Hinch, of Bessemer, Mich., now an accountant for a firm in Saudi Arabia, testified the tavern was in bad financial condition before it burned.

$44 champagne but no hookers: Hurley bartender

By CLAIRE SIMMONS
The Associated Press

A former bartender at a Hurley tavern testified today during the U.S. District Court trial of Iron County Circuit Judge Alex Raineri that she saw no evidence of prostitution at the Show Bar.

Cynthia Walker, of Wakefield, Mich., testified that she worked at the bar from April to June of 1978 and was not aware of any prostitution at the bar during that time.

Raineri is accused of three counts of using interstate facilities to promote prostitution in August and September of 1978, one count of lying to a federal grand jury and one count of threatening a witness. The judge, who previously served as Iron County district attorney for 18 years, was suspended from the bench after being indicted in June.

Alex Raineri

Walker, 24, told the eight-man, four-woman jury during the fifth day of the trial that she often saw dancers at the bar go into booths with customers after the customers purchased a $44 bottle of champagne. She testified that she was hired by Show Bar owner Cira Gasbarri, who told her there would be no prostitution at the tavern.

A tape of Raineri's voice was identified Monday by two investigators as the voice they heard in a 1979 telephone conversation, trying to discourage them from confiscating liquor from the tavern.

"The person said in a chuckling voice: 'You realize that you're not going to get anywhere in this county,' " said James Boatman, a State Department of Revenue agent.

Boatman testified that March 13, 1979, Gasbarri handed him the telephone and told him that the other party was Albert Stella, the tavern's corporation agent.

The person with whom he spoke did not identify himself, Boatman said.

Boatman said that when he identified one of his superiors as Gordon Chayka of the State Revenue Department, Raineri said: "I'll call Chayka in the morning and get this all straightened out."

While he and fellow agent Ted Seefeldt made a routine inspection of the Show Bar, Boatman said, they tested some bottles of liquor and discovered proof and coloration differences, confiscating two bottles for tests at the State Crime Lab in Madison.

Boatman said Gasbarri could not provide enough invoices to account for the amount of liquor at the Show Bar.

Gasbarri was under investigation by the Revenue Department when the Show Bar was destroyed by fire in April, 1979, he said.

Stella testified he did not have a telephone conversation with the investigators concerning the missing invoices.

Stella, a former Hurley police chief, denied seeing any evidence of prostitution at the Show Bar during the seven years he was a janitor at the tavern.

He said he quit his job about three days before the bar burned down because "I couldn't get along with Cira."

When he was asked why, he said: "Well, to me, I think she was drinking too much," adding that he brought a bottle of brandy over to her house every day for about a month before the fire.

The tavern's two other corporate officers, William Mattson of Hurley and Whitney Osborne of Ironwood, Mich., testified they did not know they were listed as Show Bar officers until they were told by the FBI this year.

Mattson, who worked briefly as janitor at the tavern, testified Raineri asked him to sign some papers in 1978 or early 1979, but that he did not know what he was signing.

Osborne testified that Raineri once helped him with his income tax and gave him several papers to sign but that he did not know if any of those papers pertained to the Show Bar.

Earlier in the day, the Show Bar's former accountant, Barney Hinch, testified Raineri told him to deny the judge had attended the tavern's business meetings.

Hinch, of Bessemer, Mich., now an accountant for a firm in Saudi Arabia, testified the tavern was in bad financial condition before it burned.

"It was a loss," Hinch said, adding that some checks written on the tavern's account had bounced.

Hinch testified last week that from 1976 to 1978, he discussed Social Security taxes, unemployment compensation and cash flow problems with the circuit court judge, often going to his office or calling him directly on the telephone.

Gasbarri testified last week that when Raineri was district attorney, he warned her when state investigators were in town because his office was notified in advance.

She said the Show Bar was never raided or cited for being open after hours while Raineri was district attorney.

Gasbarri testified that Raineri often counted money earned by dancers at the Show Bar for prostitution. She said Raineri loaned her money, helped her with the tavern's bookkeeping and gave her legal advice.

Milwaukee prostitute testifies in Raineri trial

By ELDON KNOCHE
Sentinel Madison Bureau

Madison — A Milwaukee prostitute testified Tuesday in Federal Court that she told an FBI agent in April that one of her customers was a prominent Milwaukee County circuit judge who was under investigation.

Yvonne Spears, 21, awaiting sentencing for being party to the sale of heroin in Milwaukee County, testified for the prosecution in the prostitution trial of Iron County Circuit Judge Alex Raineri.

She admitted to defense attorneys she told the FBI that other public officials were her customers, including policemen from Green Bay and Bessemer, Mich., a judge and a mayor from northern Wisconsin and a district attorney from Michigan.

Federal Judge Barbara Crabb agreed with US Atty. Frank Tuerkheimer's objection to permitting Ms. Spears to give the name of the Milwaukee County judge.

Ms. Spears denied suggestions by Raineri's attorney, Daniel Linehan, that she made false statements to FBI agent Thomas Burg because she thought she could make a deal on her own criminal charges.

According to statements by Linehan, Tuerkheimer or Ms. Spears, she pleaded guilty to one charge, four related felony charges were dismissed and her bail was reduced from $25,000 to a signature bond.

She was in jail from March to September, including the time she spoke with Burg.

Ms. Spears said Raineri was not one of her customers.

She also told the jury she once signed an affidavit at an Ironwood bank that said there was no prostitution at the Show Bar in Hurley.

She said a bank officer, present at the signing, knew the statement was false.

"Did he know you were not telling the truth?" Tuerkheimer asked.

"Yes," Ms. Spears replied. "He was a date of mine."

Ranieri has pleaded not guilty to three counts of promoting prostitution at the Show Bar, one count of lying to a federal grand jury and one count of threatening a witness.

Tuerkheimer told the court he has agreed to write Milwaukee County

Trial

Turn to Page 13

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Milwaukee prostitute testifies at Raineri trial

Trial

From Page 1

officials to tell them the value of her testimony.

The US attorney said Ms. Spears was given immunity from prosecution on her prostitution testimony by both the federal government and Iron County.

Tuerkheimer did not try to link Ms. Spears or another prostitute to Raineri, apparently placing them on the stand to show there was prostitution at the Show Bar.

Linehan said Ms. Spears, in talking to Burg, had listed "a number of big names you slept with."

When Linehan asked for names, Tuerkheimer objected.

After the lawyers conferred with Judge Crabb out of hearing of the jury, Linehan asked Ms. Spears:

"During your conversation with Mr. Burg, you named as one of your customers a Milwaukee County circuit judge, didn't you?"

"Yes," she answered.

After getting her to agree that the Milwaukee judge had been under investigation, he asked, "You thought this individual was Cira Gasbarri's (owner of the Show Bar) boyfriend?"

"Yes," she replied.

Ms. Spears also admitted telling the FBI she saw the judge in Hurley but added she could have been mistaken.

"At the time I had seen him, he had covers over his head," she said.

Ms. Spears, who said she became a prostitute at age 15, stated she worked as a stripper and prostitute at the Show Bar most of the time between June 1978 and January 1979.

Before that, she said, she was a dancer and prostitute at the Jack O'Lantern in Iron River, Mich.

She said she earned from $1,200 to $1,300 a week as a prostitute at the Show Bar.

She said at the request of Ms. Gabarri, "all the girls" signed affidavits that there was no prostitution at the bar.

Another Milwaukee woman testified she worked as a prostitute at the Show Bar for about three weeks in the fall of 1978 but never met or even spoke to Raineri.

Lenore Rimbalski, 29, said she has not been a prostitute since Oct. 31, 1978, when she quit the Show Bar and took a bus back to Milwaukee.

Ms. Rimbalski stated she was a prostitute from 1970-'78. She also said she was convicted of perjury in federal court in the early 1970s.

In 1971-'72, she said, she worked in Hurley for James Vitich.

She said she was in Chicago in August 1978, when she received word that Vitich was running the Show Bar for Ms. Gasbarri, and wanted her to return to Hurley.

Ms. Rimbalski said she worked as a prostitute for two 10-day periods, once in September and again in October.

Women were hired as dancers at the bar, but the stripping was a front for the prostitution, she said.

Customers bought champagne for $30 or more which entitled them to take a girl into one of the booths near the bar.

However, Vitich encouraged the dancers "to go upstairs . . . for prostitution," she said, saying the price started at $30 and went up to $50.

The prostitutes received a "50-50 cut" but an $8-a-day room rent and other expenses came out of the women's share, Ms. Rimbalski said.

She left at the end of October when "Jim said it was getting kind of hot."

Also on the witness stand Tuesday was Jennifer Raineri, the judge's daughter, who said she and her father had a joint checking account at the Gogebic National Bank in Ironwood, Mich.

Ms. Raineri, 34, who lives in New York City, said she used the money in the account for such things as college tuition, air fare home and medical bills.

When Tuerkheimer showed her a check for $2,250, she said it was not her signature on the document.

But, she said, her father was authorized to sign her name. It was not explained why Raineri did not sign his own name.

Tuerkheimer mentioned the check to the jury earlier, saying the judge was using it to help pay for a car for Ms. Gasbarri.

"Were you aware that $95,000 was drawn on that account" between December 1976 and December 1979, Tuerkheimer asked Ms. Raineri.

"I'm not aware of it, no," she replied.

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Judge linked to prostitution at trial

By ELLEN PORATH
Associated Press Writer

MADISON, Wis.(AP) — Judge Alex Raineri would meet every weekend with the owner of a Hurley tavern to count the proceeds from prostitution at the establishment, the owner testified Monday.

Cira Gasbari, owner of the now-defunct Show Bar, was the prosecution's first witness in Raineri's trial, which began Monday in U.S. District Court.

Raineri, 62, who was Iron County district attorney for about 18 years before becoming a judge in 1977, is accused of three counts of using interstate facilities to promote prostitution in August and September 1978, one count of lying to a federal grand jury and one count of threatening a witness.

The Circuit Court judge, who has pleaded innocent, was suspended from the bench after being indicted in June.

Judge Barbara Crabb said the trial could last three to five weeks.

Mrs. Gasbari, 45, who left Hurley in June 1979 and now lives in North Hollywood, Calif., told the eight-man, four-woman jury that Raineri became her lover after her husband, John, died in November 1975.

Mrs. Gasbari, who came to the United States from Cuba in the early 1960s, said dancers at the Show Bar, which burned down in April 1979, would put money they received for prostitution in envelopes and deposit them in a special box in a dressing room.

The box, she said, was emptied every weekend.

"Who emptied it out?" U.S. Attorney Frank Tuerkheimer asked.

"Mr. Raineri and me," she testified.

Asked what happened to the money, Mrs. Gasbari replied: "He would usually keep it."

The money, she said, was to be used for trips and clothes for her.

Mrs. Gasbari testified prostitution took place at the bar before her husband's death and after she took over.

The establishment also offered nude dancing, and provided booths in the back in which a customer could engage in some sexual activity with a dancer after buying a $3 or $4 bottle of champagne for $35 to $50, she said.

After her husband's death five years ago, she said, she ordered the booths removed. But Raineri, she said, told her: "Put those booths back, let the girls mingle with the customers."

She also said the Show Bar was never raided or cited for being open after legal hours while Raineri was district attorney.

Mrs. Gasbari said Raineri loaned her money without charging interest, helped her with the bar's books and gave her legal advice.

Once, she said, he helped her file a request for information in a suit against her. The suit was in his court at the time and was eventually thrown out, she said.

Mrs. Gasbari was questioned by defense attorneys

The Daily Herald
Tuesday, November 25, 1980
State and regional news

Daniel Linehan of Madison and Gene Linehan of Wausau about her mental history.

She acknowledged having spent time in a mental institution since 1976.

She said she had left a hospital in January. She said she signed herself in voluntarily.

"It was by a doctor's advice. I needed a rest," she said in quiet, heavily accented English that frequently prompted Mrs. Crabb and the attorneys to ask her to repeat her statements.

She said she was in "pretty good" mental health in late 1978 and "perfect" condition in April 1979, when the bar burned.

But in response to lawyers' remarks, she denied that she had tried to kill Raineri, rammed his car with her car, shot at him in his courtroom, ripped the wires out of the thermostat at her Hurley home and accused the FBI of trying to pipe gas into her home and kill her.

Mrs. Gasbari said the tavern — without prostitution — brought in about $1,700 in three or four nights. She said Raineri gave her $50 a night from prostitution proceeds.

She also indicated that she got money taken in Monday through Thursday, and that Raineri got proceeds Friday and Saturday.

Mrs. Gasbari said she accompanied Raineri to Reno in September 1978 for a judicial conference and returned with him three weeks later.

The perjury charge against Raineri stems from statements he made that he and Mrs. Gasbari traveled separately to Reno and met there by chance.

Tuerkheimer said he planned to call 25 to 35 witnesses for the prosecution.

He said prostitution at the tavern changed in the summer of 1978. Instead of going into the booths or to a nearby motel with clients, prostitutes would take their customers upstairs, he said.

The fifth charge involves allegations that Raineri arranged to threaten Patricia Colassaco, a bartender in 1977 and 1978. Officials say the threats were intended to discourage her from talking to authorities.

Tuerkheimer said Raineri helped Mrs. Gasbari with hirings, firings, dealings with police and accounting.

He said the bar's accountant, Barney Hinch of Ironwood, Mich., who Gene Linehan said is now in Saudi Arabia, "frequently found that more cash was spent than came into the bar, according to the records."

"The defendant said, 'That's none of your business,'" Tuerkheimer said.

Daniel Linehan told the jury to expect "a complicated puzzle." He said Mrs. Gasbari's behavior had been "erratic" and that he intended to show she suffered from mental illness.

"She was paranoid," he said. "She was not in touch with reality."

Mrs. Gasbari hated Raineri, he said, and at one point "physically rammed his car with her car."

Around Christmas of 1978, he said, she burst into Raineri's courtroom and tried to shoot him with a pistol.

"She didn't get him with that shot," he said. "The evidence will show that she's back for another shot with her testimony here."

Judge made tavern business decisions: accountant

By CLAIRE SIMMONS
Associated Press Writer

MADISON, Wis. (AP) — Judge Alex Raineri helped the owner of a Hurley tavern make business decisions, consulting directly with the tavern's accountant, the former accountant told a U.S. District Court jury Tuesday.

Barney Hinch, now an accountant for a firm in Saudi Arabia, testified that in mid-1976 the Show Bar's owner, Cira Gasbarri, and Raineri came to his office and asked him to do the tavern's bookkeeping.

Hinch testified that over the next two years, he discussed Social Security taxes, umemployment compensation and cash flow with the Circuit Court judge, often going to his office or calling him directly on the telephone.

Hinch was the prosecution's third witness in Raineri's trial, which began Monday before Judge Barbara Crabb.

Raineri, 62, who was Iron County district attorney for about 18 years before becoming a judge in 1977, is accused of three counts of using interstate facilities to promote prostitution in August and September 1978, one count of lying to a federal grand jury and one count of threatening a witness.

He has pleaded innocent. He was suspended from the bench after being indicted in June.

Hinch testified that when he told Raineri that Social Security taxes should be deducted from wages paid to dancers at the tavern, Raineri told them the women "were considered self-employed people."

Mrs. Gasbarri's niece, Angela Acebal, 21, of North Hollywood, Calif., testified that Raineri often answered Mrs. Gasbarri's business questions and helped her count money at the Gasbarri home.

Miss Acebal said she visited her aunt for five weeks in 1978 and worked at the Show Bar, often giving a key to upstairs rooms to prostitutes.

She testified that during her stay, Raineri was at Mrs. Gasbarri's house often, most weekday evenings and from early morning to late evening on weekends.

She said she saw her aunt and Raineri in bed together watching television, and that she once saw Raineri wearing only underwear at the home.

Miss Acebal testified that she later had a fight with her aunt, and that Raineri gave her $180 to fly home to California.

She said she returned to Hurley in April 1979 in an unsuccessful attempt to persuade Mrs. Gasbarri to travel with her to California.

She said Mrs. Gasbarri told her that she and Raineri had a falling out because the judge was having an affair with a woman bartender.

She said her aunt thought that "everyone was out to kill her."

Judge having tough time paying fees

MADISON, Wis. (AP) — Circuit Judge Alex Raineri says his trial on prostitution-related charges has affected his health and that he does not know how he can recover financially from stiff legal expenses.

Raineri, who was suspended from the bench after pleading innocent to the charges, said he has not had time to think about what he will do if he is acquitted.

Raineri, 62, is on trial in U.S. District Court on a charges of promoting prostitution, lying to a grand jury and threatening a witness.

The most significant fallout from the indictments has been on him personally, Raineri said in an interview with Dennis McCann of the Janesville Gazette.

"There is a lot of embarrassment, you know, because in 35 years of professional life I've never had this before," Raineri said. "It's tough...all that pressure on you."

Raineri was district attorney for Iron County for about 18 years before becoming a judge in 1977.

The judge said his family "is suffering the consequences of all this, too, just as badly as I am. Although, they have expressed their faith in me," he said. "It hasn't breached our family relationship."

Raineri said he is convinced he will be found innocent.

After he was suspended, Raineri filed a motion with the Supreme Court asking that his salary be continued so he could afford to live and pay legal fees during the trial.

Circuit judges draw about $46,000 a year.

The motion was denied. And the decision hurt, Raineri said.

"I was surprised by it because it was almost a determination of guilt at that time when I'm only charged," he said. "I'm not guilty of anything until proven guilty. I felt it was kind of drastic."

Raineri said he is borrowing money, mortgaging property and selling assets to make ends meet.

Judge was adviser in tavern affairs, accountant testifies

By Anita Clark
Of The State Journal

The former accountant for the Show Bar in Hurley testified Tuesday that questions about financial matters often were answered by Iron County Circuit Judge Alex J. Raineri.

Tavern owner Cira Gasbarri sometimes answered his questions but often she referred them to Raineri, said Barney Hinch, a former Bessemer, Mich., accountant who now works in Saudi Arabia.

Raineri, 62, who has been suspended from the bench, is on trial in U.S. District Court in Madison on five counts relating to prostitution at the Show Bar and allegations he lied to a federal grand jury and tried to threaten a witness.

Testimony will continue today before Judge Barbara Crabb.

"There was more money being spent compared to the amount of money coming in," said Hinch, who questioned Raineri about the discrepancies.

"There was simply no answer that I felt was a justifiable explanation to it," he said. "He (Raineri) primarily told me it was nothing that I was to be worried about."

Hinch said he also discussed sales and income taxes, Social Security payments, unemployment payments and other financial matters with Raineri after being hired in mid-1976.

His testimony drew frequent objections from defense attorney Daniel Linehan, who complained that dates of conversations were unknown and that the information was irrelevant.

The defense contends Raineri merely performed legal services for the tavern as he had before the 1975 death of Mrs. Gasbarri's husband, Jack.

In other testimony, Mrs. Gasbarri's niece, Angela Acebal, 21, North Hollywood, Calif., said Show Bar dancers took male customers upstairs and returned a key and envelopes of money to her when she tended bar in late 1978.

This occurred "about 10 or 15 times a night," Ms. Acebal said in response to questions from U.S. Attorney Frank Tuerkheimer.

As a guest at her aunt's home, she said she saw Raineri there on weekday evenings and "on weekends he was there from the early morning to late in the evening."

She saw her aunt and Raineri in bed watching television and once saw Raineri in the morning wearing "just his underwear," she said.

Under cross examination by Linehan, the young woman said her aunt was committed to a California mental institution after attacking her last Nov. 30 with a pair of scissors.

Mrs. Gasbarri was behaving strangely in the spring of 1979, and believed "everyone was out to kill her," Ms. Acebal said. Asked to be more specific about "everyone," she said, "Well, Mr. Raineri for one."

Defense attorneys contend Mrs. Gasbarri is mentally unstable, grew to hate Raineri and was out of touch with reality at times of events she is describing in court.

In her testimony, Mrs. Gasbarri said she voluntarily admitted herself in January to a California mental health center for treatment of severe depression.

Spending most of Tuesday on the witness stand responding to defense questions, Mrs. Gasbarri provided further details on Raineri's involvement in the tavern.

She said he advised her to have a Show Bar dancer make a sworn statement "that she wasn't brought to Hurley by me or by anyone as a prostitute, just as a dancer."

That followed the dancer's arrest on jewelry theft charges and her threat to talk to the government if Mrs. Gasbarri did not bail her out, according to testimony.

Mrs. Gasbarri also described a trip to Reno, Nev., about which Raineri is accused of lying to a federal grand jury, and said an acquaintance threatened her life during the trip.

Defense attorney Gene Linehan objected several times when Mrs. Gasbarri offered more information than he sought, sometimes volunteering statements about Raineri.

She said Raineri protected the tavern because he knew when state officials would be in Hurley, "especially when he was D.A. (district attorney)."

Mrs. Gasbarri denied Monday that she had driven her car into Raineri's in early 1979, but testified Tuesday an accidental collision had occurred.

Wisconsin State Journal

Metro

• Wednesday
November 26, 1980
Section 4

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Accountant testifies against Raineri

MADISON, Wis. (AP) — The trial of Judge Alex Raineri, accused of profiting from prostitution at a Hurley tavern, was recessed Wednesday for the Thanksgiving Day weekend.

Raineri, 62, who has pleaded innocent, is accused by the government of three counts of using interstate facilities to promote prostitution, one count of lying to a federal grand jury and one count of threatening a witness.

The court has been told that Raineri looked after business affairs at the tavern when he was Iron County district attorney.

Judge Barbara Crabb recessed the U.S. District Court trial as Barney Hinch of Bessemer, Mich., an accountant at the tavern until it burned down in 1979, was giving testimony.

Hinch, now an accountant for a firm in Saudi Arabia, testified that in 1976, the owner of the Show Bar, Cira Gasbarri, and Raineri came to his office and asked him to keep books for the tavern.

Hinch was the prosecution's third witness. He testified that Raineri helped Mrs. Gasbarri make business decisions. He said Raineri often consulted directly with him.

Hinch testified that on occasion he discussed Social Security taxes, unemployment compensation and cash flow with the judge.

When he told Raineri that Social Security taxes should be deducted from wages paid to dancers at the tavern, Hinch said Raineri told him the women "were considered self-employed people."

Mrs. Gasbarri, 45, left Hurley in June and now lives in North Hollywood, Calif.

She has testified that Raineri became her lover after her husband died in November, 1975.

She said she and Raineri would often count money earned by dancers at the bar for prostitution.

THE CAPITAL TIMES
Madison, Wisconsin
Wednesday, Nov. 26, 1980 — 27

Judge says trial is draining his pocketbook

NORRIS KLESMAN

Iron County Judge Alex Raineri leaves the federal courthouse in Madison.

The Associated Press

Circuit Judge Alex Raineri says his trial on prostitution-related charges has affected his health and that he does not know how he can recover financially from stiff legal expenses.

Raineri, who was suspended from the bench after pleading innocent to the charges, said he has not had time to think about what he will do if he is acquitted.

Raineri, 62, is on trial in U.S. District Court in Madison on a charges of promoting prostitution, lying to a grand jury and threatening a witness.

The most significant fallout from the indictments has been on him personally, Raineri said in an interview with Dennis McCann of the Janesville Gazette.

"There is a lot of embarrassment, you know, because in 35 years of professional life I've never had this before," Raineri said. "It's tough, all that pressure on you."

Raineri was district attorney for Iron County for about 18 years before becoming a judge in 1977.

He said it felt strange to be "on the other side of the fence" as a defendant.

The judge said his family "is suffering the consequences of all this, too, just as badly as I am. Although they have expressed their faith in me," he said. "It hasn't breached our family relationship."

Raineri said he is convinced he will be found innocent.

"Sure, I have faith in the system," he said. "I realize there are weaknesses in it but it's the only system we have. And everybody else is bound by it, so I guess I am, too."

The judge said he does not believe allegations of prostitution at the Show Bar will renew Hurley's reputation as a wide open city where illicit activities are winked at by residents. Activities at the former nightclub could not be characterized as "organized prostitution," he said.

After he was suspended, Raineri filed a motion with the State Supreme Court asking that his salary be continued so he could afford to live and pay legal fees during the trial.

Circuit judges draw about $46,000 a year.

The motion was denied. And the decision hurt, Raineri said.

"I was surprised by it because it was almost a determination of guilt at that time when I'm only charged," he said. "I'm not guilty of anything until proven guilty. I felt it was kind of drastic."

Raineri said he is borrowing money, mortgaging property, and selling assets to make ends meet.

Each of the counts carries a maximum penalty of five years in prison. Raineri said he is frightened at the possibility he will be convicted.

If acquitted, he still would face two counts of misconduct filed by the State Judicial Commission. His attorney, Gene Linehan, said the misconduct charges are minor compared to the federal charges.

Two prostitutes testify in trial of Judge Raineri

By Claire Simmons
Associated Press

A woman who worked as a prostitute at a Hurley tavern testified Tuesday in the U.S. District Court trial of Judge Alex Raineri that a bank official who was present when she signed an affidavit denying there was prostitution at the establishment had been one of her customers.

Yvonne Spears, 21, of Milwaukee, said she worked as a bartender and dancer at the Show Bar from June 1978 to January 1979 while, the government says, Raineri was promoting prostitution.

U.S. Attorney Frank Tuerkheimer asked Miss Spears why she knew that the banker in Ironwood, Mich., near Hurley, knew she was not telling the truth when she signed the denial affidavit, requested by the bar's owner.

Miss Spears said she was granted immunity from prosecution in Iron County in exchange for her testimony, which came in the fifth day of the trial.

Raineri, 62, is accused of three counts of using interstate facilities to promote prostitution in August and September 1978, one count of lying to a federal grand jury and one count of threatening a witness.

Raineri was Iron County district attorney for 18 years before becoming a judge in 1977. He was suspended from the bench after being indicted in June.

Miss Spears testified that she told an FBI agent last April that her customers included a Milwaukee judge, several Green Bay policeman, Michigan policemen, a Michigan district attorney, a mayor from northern Wisconsin, and a judge from northern Wisconsin — not Raineri.

The jury also heard a 29-year-old Milwaukee woman testify she worked in 1978 at the tavern as a prostitute.

Prostitute testifies she lied about clients in Raineri case

The Associated Press

A woman who worked as a prostitute at a Hurley tavern testified Tuesday in the U.S. District Court trial of judge Alex Raineri that a Michigan bank official, who had been one of her clients, was a witness to her signing an affidavit denying there was prostitution at the establishment.

Yvonne Spears, 21, of Milwaukee said she worked as a bartender and dancer at the Show Bar from June, 1978, to January, 1979, while, the government says, Raineri was promoting prostitution.

U.S. Attorney Frank Tuerkheimer asked Spears why she knew that the banker in Ironwood, Mich., near Hurley, knew she was not telling the truth when she signed the denial affidavit.

"He was a date of mine," Spears replied, adding that "date" was a euphemism for a prostitution customer.

Spears said she was granted immunity from prosecution in Iron County in exchange for her testimony which came in the fifth day of Raineri's trial.

Spears, who said she had turned to prostitution at age 15, is waiting sentencing by a Milwaukee court on a charge of selling heroin.

Raineri, 62, is accused of three counts of using interstate facilities to promote prostitution in August and September of 1978, one count of lying to a federal grand jury and one count of threatening a witness.

Raineri was Iron County district attorney for 18 years before becoming a judge in 1977. He was suspended from the bench after being indicted in June.

Spears testified that she told an FBI agent last April that her customers included a Milwaukee judge, several Green Bay policeman, Michigan policemen, a Michigan district attorney, a mayor from northern Wisconsin, and a judge from northern Wisconsin — not Raineri.

Spears said she earned $1,200-$1,300 a week for prostitution at the Show Bar.

She said she was arrested for jewelry theft in Ironwood in December, 1978, and threatened to tell authorities about prostitution at the Show Bar unless the tavern's owner, Cira Gasbarri, got her out of jail.

She said after she was released from jail, Gasbarri asked her to sign an affidavit stating that there was no prostitution at the Show Bar.

Raineri's attorney, Daniel Linehan of Madison, asked Spears if she was "looking for a break" when providing information to an FBI investigator about her Show Bar customers.

"Just telling the truth?" Linehan asked. "Yes," she replied.

Spears is free on reduced bail in the Milwaukee narcotics case. She said Tuerkheimer promised to tell Milwaukee County authorities of her cooperative attitude in the Show Bar investigation.

A former bartender, Cynthia Walker, told the eight-man, four-woman jury that she saw no evidence of prostitution at the Show Bar while she was employed there from April to June, 1978.

But Walker, 24, of Wakefield, Mich., testified she often saw dancers go to booths with customers after the patrons purchased bottles of champagne at $44 each.

She said she received a $4 tip per bottle.

Walker said that when she started working at the tavern, Gasbarri told her there would be no prostitution.

Gasbarri testified last week that Raineri often counted money earned by dancers for prostitution. She said Raineri loaned her money, helped her with the tavern's bookkeeping, gave her legal advice, and that the tavern was never raided while he was district attorney.

Raineri's daughter, Jennifer, 34, a television commercial salesman in New York, said she and her father maintained a joint account in a Gogebic, Mich., bank.

The account was for her college expenses, she said.

She denied having written a $2,250 check drawn from the account under her signature, but said her father was entitled to use her name for transactions.

The prosecution says the check was used to help buy a $5,000 car for Gasparri.

Tuerkheimer said $95,000 passed through the account between 1976 and 1979.

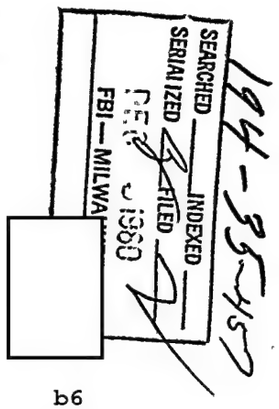
The jury also heard a 29-year-old Milwaukee woman testify she worked in 1978 at the tavern as a prostitute.

She said she was hired by a man who managed the tavern while Gasparri was vacationing in Reno, Nev., where Raineri was also visiting.

MILWAUKEE SENTINEL

State News

Tuesday December 2, 1980



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State agent links Raineri with bar

By ELDON KNOCHE
Sentinel Madison Bureau

Madison — A state alcohol enforcement agent Monday told a federal grand jury that a man he was talking to on a telephone in Hurley in 1979 told him, "You realize you're not going to get anywhere in this county."

After listening to voice test recordings in the courtroom, the agent, James Boatman, Marinette, identified the person as Iron County Circuit Judge Alex Raineri.

Raineri is charged with five counts of promoting prostitution at the Show Bar in Hurley, lying to a federal grand jury and threatening a witness. He has pleaded not guilty to all charges.

As the second week of the trial started, US Atty. Frank Tuerkheimer continued his attempt to link Raineri to the Show Bar.

Boatman and Ted Seefeldt, Rhinelander, another alcohol enforcement agent, testified they went to the Show Bar March 13, 1979, for a routine check of liquor purchase invoices against the stock on hand and to make chemical tests of some of the liquor.

When some invoices could not be found, the bar owner, Cira Gasbarri, telephoned someone they believed to be Albert Stella, whose name was on the liquor license.

Stella later said under oath that he had not talked to the agents on the phone.

Boatman said the party on the phone objected to the agents removing any of the liquor.

"The party told me in a chuckling voice that you realize you're not going to get anywhere in this county," Boatman testified.

"The party then said, 'I'll call Mr. Chayka in the morning and get this straightened out,' " the agent said.

Gordon Chayka is chief of the alcohol and tobacco enforcement section of the Wisconsin Department of Revenue.

Boatman said he returned to the Show Bar the next day and talked with the janitor, who was repairing a vacuum cleaner.

Ms. Gasbarri told him the janitor's name was Albert Stella.

Stella, 72, is a former Hurley police chief. He said that after he retired he became the janitor at the Show Bar for six or seven years. The bar burned in April 1979.

Seefeldt, who also identified Raineri's voice tape in court, said he spoke with him briefly March 13, 1979, thinking it was Stella.

Seefeldt said when he returned to the Show Bar April 4, 1979, to confiscate nine bottles of liquor, Ms. Gasbarri became upset and grabbed his arms to try to keep him from leaving.

"She told me I needed a court order and she was going to call Judge Alex Raineri," he said.

He said she phoned Raineri before Seefeldt, who said he found himself locked in the bar with Ms. Gasbarri, could leave, and he spoke with the judge.

"Judge Alex Raineri wanted to know my authority for confiscation of the brandy," the agent said.

He said he then realized it was Raineri, not Stella, he spoke with March 13, 1979, and filed a report in his office in Madison to correct his earlier statement that he had talked with Stella.

Under questioning, the two agents told defense attorney Gene Linehan they had heard Raineri's voice when they appeared in his court before the time of the phone calls.

However, Seefeldt said he did not recognize Raineri's voice on the phone March 13, 1979.

Linehan objected to the playing of the tapes before the jury, saying the sound could be distorted and identification of the voice could be incorrect.

FD-302 (REV. 11-27-70)

FEDERAL BUREAU OF INVESTIGATION

- 1 -

Date of transcription May 30, 1980

[redacted] American Linen, was contacted b6 b7C on May 19, 1980, and advised by Special Agent [redacted] that he wished some information concerning their dealings with the Sho Bar in Hurley, Wisconsin.

[redacted] then recontacted the FBI Office on May 22, 1980, and advised that a search of her records revealed that the Sho Bar in Hurley began service with American Linen in September, 1972, and quit service October 25, 1978. Records also indicate that an unpaid balance of $176.59 was made in December, 1978, indicating that they had been about three months past due on their final bill. b6 b7C

Records further indicate that initially the Sho Bar got a lot of linen, which included bar towels, sheets, dish towels and various other types of material. Toward the end, the Sho Bar just got bar towels and some larger Turkish type towels. The Sho Bar was also provided with bartender waist aprons and other types of bar linen equipment.

[redacted] said that the Sho Bar's account number was 4136-09 and was listed under the Show Bar in Hurley. She stated that the driver who handled the account is now the [redacted] at Hibbing, Minnesota, and is named [redacted] b6 b7C

[redacted] further stated that the custodian of the records to be subpoenaed if necessary in this matter should be [redacted] at 515 East Nineteenth Street in Hibbing. b6 b7C

Interviewed on 5/19/80 at Duluth, Minnesota File # Minneapolis 194-41-6 Milwaukee 194-35-458

by SA [redacted] Date dictated 5/23/80 b6 b7C

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription June 25, 1980

[redacted] American Linen Supply, 519 East Nineteenth Street, Hibbing, Minnesota, was advised of the identity of the interviewing agent and the nature of the interview. [redacted] provided the following information: b6 b7C

[redacted] provided photostatic copies of microfiche records for the years of 1975, 1976, 1977 and 1978. The records were for the Show Bar in Hurley, Wisconsin, which has American Linen account number 4136-09. [redacted] stated that review of her records also indicated that they had received one payment check under the Show Bar account number for the Ritz Bar. [redacted] stated that she believed that the Ritz and the Show Bar were one and the same. b6 b7C

The records that [redacted] produced consisted of monthly statements and individual invoices reflecting articles delivered to the Show Bar. [redacted] said the last month of service for the Show Bar was September of 1978. b6 b7C

Interviewed on June 13, 1980 at Hibbing, Minnesota File # Minneapolis 194-41-19
MI-194-35-459

by SA [redacted] Date dictated June 19, 1980 b6 b7C

FD-491 (Rev. 1-17-77)

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, MILWAUKEE (194-35) DATE: 12/8/80

FROM: [redacted], MINNEAPOLIS (194-41)

SUBJECT: ALEX J. RAINERI
CIRCUIT JUDGE
HURLEY, WISCONSIN;
(Title)
HOBBS ACT - OFFICIAL CORRUPTION;
ITAR - PROSTITUTION;
ITAR -BRIBERY; PERJURY: OOJ
OO: MILWAUKEE

☐ RUC

☒ File Destruction Program

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b7C

Enclosed are 3 items.
These items are forwarded your office since:

☐ All logical investigation completed in this Division

☒ You were OO at the time our case was RUC'd.

Enclosures are described as follows:

Original FD-302 of [redacted] dated 5/19/80

Original FD-302 of [redacted] dated 6/13/80

1A(2) - Original notes re interview of [redacted]

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b7C

1 - Milwaukee (Enc. 3)
1 - Minneapolis (194-41)
[redacted]
(2)

Enc.

194-35-460

SEARCHED [redacted] INDEXED [redacted]
SERIALIZED [redacted] FILED [redacted]
DEC 0 1980
FBI — MILWAUK[redacted]

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b7C

NOTE: DO NOT BLOCK STAMP ORIGINAL

FBI/DOJ

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Hurley policeman testifies he tried to silence his sister in Raineri case

By Claire Simmons
Associated Press

A Hurley policeman, Kenneth Colassaco, testified Thursday in the U.S. District Court trial of Judge Alex Raineri that Colassaco told his sister to "keep her mouth shut" about an investigation of the judge after Raineri asked him to tell her to "stop telling lies."

"Did you intend to threaten her?" defense attorney Gene Linehan asked Colassaco.

"I guess I did," Colassaco replied. "I wanted her to keep her nose out of it. I just wanted her to get the message."

Raineri is accused of three counts of using interstate facilities to promote prostitution in August and September 1978 at a tavern in Hurley, one count of lying to a federal grand jury and one count of threatening a witness.

Raineri, 62, who was Iron County district attorney for 18 years before becoming a Circuit Court judge in 1977, has pleaded innocent. He was suspended from the bench after being indicted in June.

Colassaco testified that he had a conversation with Raineri at Raineri's courthouse office in March and was told to tell his sister, Patricia Colassaco of Ironwood, Mich., to "stop telling lies about him and that if she wouldn't listen to me, he'd get someone else to talk to her."

Colassaco told the eight-man, four-woman jury that he also told another sister, Mrs. Nancy Gross, to "stay out of the Show Bar investigation."

Miss Colassaco testified that during a March telephone conversation with her brother, "he told me that I should not talk to the FBI."

"I took it as a threat," she said.

"He told me that if he couldn't talk to me and keep me quiet, there were others who would," she said.

"I asked him who put him up to calling me and having me threatened," Miss Colassaco said, adding her brother responded: "Nobody."

Miss Colassaco testified she worked as a bartender at the Show Bar from early 1977 to June 1978 and observed sexual acts between prostitutes and customers in booths at the bar.

Colassaco testified he never noticed any prostitution at the Show Bar during the last two years while he was a Hurley policeman.

Miss Colassaco testified that Raineri was a regular visitor at the Show Bar and called the tavern "just about every night" to talk to owner Cira Gasbarri.

She testified that one night in the summer of 1978, Raineri came to the tavern about 3 a.m. after dancers at the bar demanded their weekly paychecks from Mrs. Gasbarri because they wanted to leave town.

(Indicate page, name of newspaper, city and state.)

D-1
WISCONSIN STATE JOURNAL
MADISON, WISCONSIN

Date: 12/5/80
Edition: FINAL

Title:

Character:
or 194-35
Classification:
Submitting Office: MILWAUKEE

194-35-461

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____

DEC 1980

FBI—MILWAUKEE

b6
b7C

DOJ

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Trial worries Judge Raineri

By ELDON KNOCHE
Sentinel Madison Bureau

Madison — Iron County Circuit Judge Alex Raineri says he may never take the bench again, even if he is acquitted of five federal criminal charges.

"If this leaves an impression ... that I can't be totally neutral, I can't be a judge," Raineri said. "To be a judge is a grave responsibility. You have to be as normal as possible."

His attorneys would not allow him to discuss legal aspects of his trial, which began Nov. 24.

Raineri has pleaded not guilty to charges of promoting prostitution at a Hurley tavern where stripteasing was performed, lying to a grand jury and threatening a witness.

If convicted, Raineri would lose his judgeship and he could be sentenced to a maximum of 25 years in prison and fined $45,000.

The prosecution rested Friday and defense arguments begin Monday.

Raineri's attorneys said the judge would take the stand in his own defense before the trial ends.

When asked if he would preside over a court again if found innocent, he said, "That's a crossroads I have to face."

He said a judge must feel neither hatred nor self-pity and he did not know how he would feel after the verdict comes in.

Raineri talked about changing careers after the trial, perhaps working at something that does not involve skills as a lawyer.

In the first 10 days of the trial, prosecution witnesses were paraded through the courtroom with tales of how Raineri allegedly split earnings with prostitutes and supposedly lied, threatened and bullied.

"The people that testified strongly against me were motivated by hatred," he said. "I enforced the law against most of them."

(Indicate page, name of newspaper, city and state.)

A-8
MILWAUKEE SENTINEL
MILWAUKEE, WISCONSIN

Date: 12/8/80
Edition: FINAL

Title:

Character:
or 194-35
Classification:
Submitting Office: MILWAUKEE

194-35-462

SEARCHED
SERIALIZED
INDEXED
FILED

DEC 1980

FBI - MILWAUKEE

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b7C

DOJ

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

$44 champagne but no hookers: Hurley bartender

By CLAIRE SIMMONS
The Associated Press

A former bartender at a Hurley tavern testified today during the U.S. District Court trial of Iron County Circuit Judge Alex Raineri that she saw no evidence of prostitution at the Show Bar.

Cynthia Walker, of Wakefield, Mich., testified that she worked at the bar from April to June of 1978 and was not aware of any prostitution at the bar during that time.

Raineri is accused of three counts of using interstate facilities to promote prostitution in August and September of 1978, one count of lying to a federal grand jury and one count of threatening a witness. The judge, who previously served as Iron County district attorney for 18 years, was suspended from the bench after being indicted in June.

Alex Raineri

Walker, 24, told the eight-man, four-woman jury during the fifth day of the trial that she often saw dancers at the bar go into booths with customers after the customers purchased a $44 bottle of champagne. She testified that she was hired by Show Bar owner Cira Gasbarri, who told her there would be no prostitution at the tavern.

A tape of Raineri's voice was identified Monday by two investigators as the voice they heard in a 1979 telephone conversation, trying to discourage them from confiscating liquor from the tavern.

"The person said in a chuckling voice: 'You realize that you're not going to get anywhere in this county,' " said James Boatman, a State Department of Revenue agent.

Boatman testified that March 13, 1979, Gasbarri handed him the telephone and told him that the other party was Albert Stella, the tavern's corporation agent.

The person with whom he spoke did not identify himself, Boatman said.

Boatman said that when he identified one of his superiors as Gordon Chayka of the State Revenue Department, Raineri said: "I'll call Chayka in the morning and get this all straightened out."

While he and fellow agent Ted Seefeldt made a routine inspection of the Show Bar, Boatman said, they tested some bottles of liquor and discovered proof and coloration differences, confiscating two bottles for tests at the State Crime Lab in Madison.

Boatman said Gasbarri could not provide enough invoices to account for the amount of liquor at the Show Bar.

Gasbarri was under investigation by the Revenue Department when the Show Bar was destroyed by fire in April, 1979, he said.

Stella testified he did not have a telephone conversation with the investigators concerning the missing invoices.

(Indicate page, name of newspaper, city and state.)

A-8
THE CAPITAL TIMES
MADISON, WISCONSIN

Date: 12/2/80
Edition: FINAL

Title: .

Character:
or
Classification: 194-35
Submitting Office: MILWAUKEE

194-35-463

SEARCHED ____ INDEXED ____ b6
SERIALIZED ____ FILED ____ b7C

DEC 3 1980

FBI—MILWAUKEE

Stella, a former Hurley police chief, denied seeing any evidence of prostitution at the Show Bar during the seven years he was a janitor at the tavern.

He said he quit his job about three days before the bar burned down because "I couldn't get along with Cira."

When he was asked why, he said: "Well, to me, I think she was drinking too much," adding that he brought a bottle of brandy over to her house every day for about a month before the fire.

The tavern's two other corporate officers, William Mattson of Hurley and Whitney Osborne of Ironwood, Mich., testified they did not know they were listed as Show Bar officers until they were told by the FBI this year.

Mattson, who worked briefly as janitor at the tavern, testified Raineri asked him to sign some papers in 1978 or early 1979, but that he did not know what he was signing.

Osborne testified that Raineri once helped him with his income tax and gave him several papers to sign but that he did not know if any of those papers pertained to the Show Bar.

Earlier in the day, the Show Bar's former accountant, Barney Hinch, testified Raineri told him to deny the judge had attended the tavern's business meetings.

Hinch, of Bessemer, Mich., now an accountant for a firm in Saudi Arabia, testified the tavern was in bad financial condition before it burned.

"It was a loss," Hinch said, adding that some checks written on the tavern's account had bounced.

Hinch testified last week that from 1976 to 1978, he discussed Social Security taxes, unemployment compensation and cash flow problems with the circuit court judge, often going to his office or calling him directly on the telephone.

Gasbarri testified last week that when Raineri was district attorney, he warned her when state investigators were in town because his office was notified in advance.

She said the Show Bar was never raided or cited for being open after hours while Raineri was district attorney.

Gasbarri testified that Raineri often counted money earned by dancers at the Show Bar for prostitution. She said Raineri loaned her money, helped her with the tavern's bookkeeping and gave her legal advice.

FD-350 (Rev. 10-19-77)

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Prostitute testifies she lied about clients in Raineri case

The Associated Press

A woman who worked as a prostitute at a Hurley tavern testified Tuesday in the U.S. District Court trial of judge Alex Raineri that a Michigan bank official, who had been one of her clients, was a witness to her signing an affidavit denying there was prostitution at the establishment.

Yvonne Spears, 21, of Milwaukee said she worked as a bartender and dancer at the Show Bar from June, 1978, to January, 1979, while, the government says, Raineri was promoting prostitution.

U.S. Attorney Frank Tuerkheimer asked Spears why she knew that the banker in Ironwood, Mich., near Hurley, knew she was not telling the truth when she signed the denial affidavit.

"He was a date of mine," Spears replied, adding that "date" was a euphemism for a prostitution customer.

Spears said she was granted immunity from prosecution in Iron County in exchange for her testimony which came in the fifth day of Raineri's trial.

Spears, who said she had turned to prostitution at age 15, is waiting sentencing by a Milwaukee court on a charge of selling heroin.

Raineri, 62, is accused of three counts of using interstate facilities to promote prostitution in August and September of 1978, one count of lying to a federal grand jury and one count of threatening a witness.

Raineri was Iron County district attorney for 18 years before becoming a judge in 1977. He was suspended from the bench after being indicted in June.

Spears testified that she told an FBI agent last April that her customers included a Milwaukee judge, several Green Bay policeman, Michigan policemen, a Michigan district attorney, a mayor from northern Wisconsin, and a judge from northern Wisconsin — not Raineri.

Spears said she earned $1,200-$1,300 a week for prostitution at the Show Bar.

She said she was arrested for jewelry theft in Ironwood in December, 1978, and threatened to tell authorities about prostitution at the Show Bar unless the tavern's owner, Cira Gasbarri, got her out of jail.

She said after she was released from jail, Gasbarri asked her to sign an affidavit stating that there was no prostitution at the Show Bar.

Raineri's attorney, Daniel Linehan of Madison, asked Spears if she was "looking for a break" when providing information to an FBI investigator about her Show Bar customers.

"Just telling the truth?" Linehan asked. "Yes," she replied.

Spears is free on reduced bail in the Milwaukee narcotics case. She said Tuerkheimer promised to tell Milwaukee County authorities of her cooperative attitude in the Show Bar investigation.

A former bartender, Cynthia Walker, told the eight-man, four-woman jury that she saw no evidence of prostitution at the Show Bar while she was employed there from April to June, 1978.

But Walker, 24, of Wakefield, Mich., testified she often saw dancers go to booths with customers after the patrons purchased bottles of champagne at $44 each.

She said she received a $4 tip per bottle.

Walker said that when she started working at the tavern, Gasbarri told her there would be no prostitution.

Gasbarri testified last week that Raineri often counted money earned by dancers for prostitution. She said Raineri loaned her money, helped her with the tavern's bookkeeping, gave her legal advice, and that the tavern was never raided while he was district attorney.

Raineri's daughter, Jennifer, 34, a television commercial salesman in New York, said she and her father maintained a joint account in a Gogebic, Mich., bank.

The account was for her college expenses, she said.

(Indicate page, name of newspaper, city and state.)

A-27
THE CAPITAL TIMES
MADISON, WISCONSIN

Date: 12/3/80
Edition: FINAL

Title:

Character:
or
Classification: 194-35
Submitting Office: MILWAUKEE

194-35-464

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____

DEC 3 1980

FBI—MILWAUKEE

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She denied having written a $2,250 check drawn from the account under her signature, but said her father was entitled to use her name for transactions.

The prosecution says the check was used to help buy a $5,000 car for Gasparri.

Tuerkheimer said $95,000 passed through the account between 1976 and 1979.

The jury also heard a 29-year-old Milwaukee woman testify she worked in 1978 at the tavern as a prostitute.

She said she was hired by a man who managed the tavern while Gasparri was vacationing in Reno, Nev., where Raineri was also visiting.

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Judge tried to deter probe, investigators say

By Claire Simmons
Associated Press

A tape of Judge Alex Raineri's voice was identifed Monday by two investigators as the voice they heard in a 1979 telephone conversation trying to discourage them from confiscating liquor from a Hurley tavern.

"The person said in a chuckling voice: 'You realize that you're not going to get anywhere in this county,'" James Boatman, a state Department of Revenue agent, said.

Boatman's testimony came in the fourth day of Raineri's U.S. District Court trial on charges of having promoted prostitution in his northern Wisconsin community.

Raineri, 62, who was Iron County district attorney for about 18 years before becoming a judge in 1977, has been suspended from the bench since June after being indicted.

He is accused of three counts of using interstate facilities to promote prostitution in August and September 1978, one count of lying to a federal grand jury, and one count of threatening a witness.

Boatman testified that on March 13, 1979, Cira Gasbarri, owner of the Show Bar in Hurley, handed him the telephone and told him that the other party was Albert Stella, the tavern's corporation agent.

The person with whom he spoke did not identify himself, Boatman said.

Boatman said when he identified one of his superiors as Gordon Chayka of the State Revenue Department, Raineri said: "I'll call Chayka in the morning and get this all straightened out."

While he and fellow agent Ted Seefeldt made a routine inspection of the Show Bar, Boatman said, they tested some bottles of liquor and discovered proof and coloration differences, confiscating two bottles for tests at the state Crime Lab in Madison.

Boatman said Mrs. Gasbarri could not provide enough invoices to account for the amount of liquor at the Show Bar.

Mrs. Gasbarri was under investigation by the Revenue Department when the Show Bar was destroyed by fire in April 1979, he said.

Stella testified he did not have a telephone conversation with the investigators concerning the missing invoices.

Stella, a former Hurley police chief, denied seeing any evidence of prostitution at the Show Bar during the seven years he was a janitor at the tavern.

He said he quit his job about three days before the bar burned down because "I couldn't get along with Cira."

When he was asked why, he said: "Well, to me, I think she was drinking too much," adding that he brought a bottle of brandy over to her house every day for about a month before the fire.

The tavern's two other corporate officers, William Mattson of Hurley and Whitney Osborne of Ironwood, Mich., testified they did not know they were listed as Show Bar officers until they were told by the FBI this year.

Mattson, who worked briefly as janitor at the tavern, testified Raineri asked him to sign some papers in 1978 or early 1979, but he did not know what he was signing.

Osborne testified Raineri once helped him with his income tax and gave him several papers to sign but he did not know if any of those papers pertained to the Show Bar.

Earlier in the day, the Show Bar's former accountant, Barney Hinch, testified Raineri told him to deny the judge had attended the tavern's business meetings.

Hinch, of Bessemer, Mich., now an accountant for a firm in Saudi Arabia, testified the tavern was in bad financial condition before it burned.

(Indicate page, name of newspaper, city and state.)

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WISCONSIN STATE JOURNAL
MADISON, WISCONSIN

Date: 12/2/80
Edition: FINAL

Title:

Character:
or 194-35
Classification:
Submitting Office: MILWAUKEE

194-35-465

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____

DEC 3 1980

FBI—MILWAUKEE

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b7C

FD-350 (Rev. 10-19-77)

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Witness says judge asked him to lie

By Anita Clark
Of The State Journal

The former accountant for the Show Bar in Hurley testified Wednesday that Circuit Judge Alex Raineri told him to tell investigators the judge was not involved in operations of the tavern.

The testimony of Barney Hinch came in the third day of Raineri's jury trial in U.S. District Court in Madison.

Raineri, who was Iron County district attorney for 18 years, is charged with three counts of interstate activity in connection with prostitution at the Show Bar, one count of lying to a grand jury and one count of trying to have a witness threatened.

Testimony will resume Monday before Judge Barbara Crabb.

Hinch, who now works in Saudi Arabia, handled bookkeeping for the Show Bar from mid-1976 until it was destroyed by fire in April 1979. His work diminished in the last months, he said, because he had difficulties with Cira Gasbarri, owner of the tavern.

"In fact, I had to do the payroll when I could get a hold of her," Hinch said, describing problems locating Mrs. Gasbarri in early 1979.

In response to questions from defense attorney Daniel Linehan, the accountant said there were frequent discrepancies in Show Bar day sheets, written written records of daily income and expenditures, and monthly totals.

"She had no general method of bookkeeping at all," Hinch said.

He testified Tuesday, in response to questions from U.S. Attorney Frank Tuerkheimer, that his questions about tax and payroll matters often were answered by Raineri, either by telephone or in person.

Hinch was uncertain, however, about the exact dates of such conversations and the defense is trying to prove Raineri's involvement was simply that of an attorney for the tavern.

Before taking office as judge in January 1978, Raineri held the job of part-time district attorney and thus could also practice law.

Hinch said he had no knowledge of Raineri hiring or firing tavern employees and testified that Raineri's advice on financial matters was of the type generally offered by an attorney for a corporation.

State agents once visited the tavern and locked up its liquor until Mrs. Gasbarri produced financial receipts that she had claimed were lost or stolen, Hinch testified. He had been called to the bar by her to help answer the agents' questions.

Mrs. Gasbarri has testified that Raineri protected the tavern from state officials because he knew in advance when they would be visiting Hurley.

Although Raineri was in the tavern occasionally when Hinch made his weekly visits on Monday afternoon, the accountant said he did not know if this was befoe or after Raineri took office as judge.

He said Raineri telephoned him in early March 1980, inquired about his wife and children and told Hinch that, if anyone asked, he should say Raineri had merely introduced him to Mrs. Gasbarri but had no knowledge about the business.

(Indicate page, name of newspaper, city and state.)

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WISCONSIN STATE JOURNAL
MADISON, WISCONSIN

Date: 11/27/80
Edition: FINAL

Title:

Character:
or 194-35
Classification:
Submitting Office: MILWAUKEE

194-35-466

SEARCHED INDEXED
SERIALIZED FILED
DEC 3 1980
FBI-MILWAU

b6
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FD-350 (Rev. 10-19-77)

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Handwriting identified at trial

Madison — Two FBI specialists Friday told a federal jury that handwriting and fingerprints of Iron County Circuit Judge Alex Raineri appear on checks or check stubs of the Show Bar in Hurley. Raineri, 62, is on trial on three counts of promoting prostitution at the bar, one count of perjury before a US grand jury and one count of obstructing justice by threatening a witness. He has pleaded not guilty to all charges.

(Indicate page, name of newspaper, city and state.)

A-13
MILWAUKEE SENTINEL
MILWAUKEE, WISCONSIN

Date: 12/6/80
Edition: FINAL

Title:

Character:
or 194-35
Classification:
Submitting Office: MILWAUKEE

194-35-467

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____

DEC 3 1980

FBI—MILWAUKEE

b6
b7C

DOJ

FD-350 (Rev. 10-19-77)

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Witness claims Hurley judge was prostitution kingpin

From Wire Services

Iron County Circuit Judge Alex Raineri encouraged prostitution in a Hurley bar and kept most of the income from the prostitution, the operator of a former Hurley bar testified in U.S. District Court in Madison Monday.

Raineri would meet with her every weekend to count the proceeds from prostitution at the establishment, Cira Gasbarri, owner of the now-defunct Show Bar, testified Monday as the prosecution's first witness in Raineri's trial.

Raineri, 62, who was Iron County district attorney for about 18 years before becoming a judge in 1977, is accused of three counts of using interstate facilities to promote prostitution in August and September, 1978, one count of perjury before a federal grand jury, and one count of threatening a witness.

The judge, who has pleaded innocent, was suspended from the bench after being indicted in June. Federal Judge Barbara Crabb said the trial could last three to five weeks.

Gasbarri said Raineri encouraged her to expand prostitution activity at the Show Bar.

"He told me (to) put the booths back in and let the girls mingle with the customers," she said, adding men took women into the booths for sexual gratification.

Gasbarri said men paid from $35-$50 for a $3 or $4 bottle of chilled champagne, the price allowing them to go into the booth with a woman. She said in the summer of 1978, about six months after Raineri became judge, he encouraged her to allow prostitution upstairs.

"He said, 'Let the girls go up there so we keep them off the streets,'" she testified.

Gasbarri, 45, who left Hurley in June, 1979, and now lives in North Hollywood, Calif., told the eight-man, four-woman jury that Raineri became her lover after her husband, John, died in November, 1975.

Gasbarri, who came to the United States from Cuba in the early 1960s, said dancers at the Show Bar, which burned down in April, 1979, would put money they received for prostitution in envelopes and deposit them in a special box in a dressing room.

The box, she said, was emptied every weekend.

"Who emptied it out?" U.S. Attorney Frank Tuerkheimer asked.

"Mr. Raineri and me," she testified.

Asked what happened to the money, Gasbarri replied: "He would usually keep it."

Defense attorneys Eugene Linehan of Wausau and Daniel Linehan of Madison alleged Gasbarri is mentally unstable.

In cross-examination, Eugene Linehan pulled a small pistol out of a box and asked her whether she had used it to fire a shot at Raineri after the Show Bar burned to the ground in 1979. She denied it.

She did confirm she entered a California mental hospital in 1979 because she was in a "state of depression." She said she was admitted voluntarily.

Tuerkheimer said he planned to call 25 to 35 witnesses for the prosecution.

(Indicate page, name of newspaper, city and state.)

A-1
THE CAPITAL TIMES
MADISON, WISCONSIN

Date: 11/25/80
Edition: FINAL

Title:

Character:
or 194-35
Classification:
Submitting Office: MILWAUKEE

194-35-468

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____

DEC 3 1980

FBI—MILWAUKEE

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FD-350 (Rev. 10-19-77)

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Selection of a jury begins for trial of Hurley judge

The Associated Press

Jury selection began today in the trial of a Circuit Judge Alex J. Raineri, who is accused of promoting prostitution in Hurley.

U.S. District Judge Barbara Crabb told prospective jurors the trial of the Iron County jurist is expected to last several weeks.

"It will probably take at least three weeks or as long as five," she said, and excused several people who said they could not be involved in a trial that long.

Raineri was indicted last June on three counts of promoting prostitution in Hurley, one count of lying to a federal grand jury and one count of threatening a witness.

The judge, who has pleaded inocent, was suspended after the indictment.

Crabb asked prospective jurors whether they or their families operated a tavern, and whether they felt Raineri's position as judge would affect their impartiality or whether they had strong feelings that prostitution should or should not be considered a crime.

She excused about a half dozen people who said they believed people involved in prostitution should be prosecuted.

The indictment accuses Raineri of three violations of federal law in connection with prostitution activities centered around the Show Bar in Hurley between August and September of 1978. Each carries a maximum penalty of five years in prison and a $10,000 fine.

Raineri is also accused of lying to a grand jury on March 18, 1980, when he said he did not travel to and from Reno, Nev., with a person named Cira Casbari in 1978 while attending a judicial seminar. The maximum penalty for that alleged offense is five years in prison and a $10,000 fine.

The fifth count against the judge accuses him of trying to obstruct, influence and impede the administration of justice last March 19 by arranging for a prospective grand jury witness to be threatened in connection with her testimony. The maximum penalty for that alleged offense is five years in prison and a $5,000 fine.

(Indicate page, name of newspaper, city and state.)

A-2
THE CAPITAL TIMES
MADISON, WISCONSIN

Date: 11/24/80
Edition: FINAL

Title:

Character:
or 194-35
Classification:
Submitting Office: MILWAUKEE

194-35-469

SEARCHED ___ INDEXED ___
SERIALIZED ___ FILED ___

DEC 3 1980

FBI—MILWAUKEE

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FBI/DOJ

FD-350 (Rev. 10-19-77)

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FBI links judge to tavern's checks

By Claire Simmons
Associated Press

The government rested Friday in the U.S. District Court trial of Circuit Court Judge Alex Raineri after FBI agents testified they could identify Raineri's handwriting and fingerprints on a Hurley tavern's checking account documents.

U.S. Attorney Frank Tuerkheimer rested the government's case after eight days of testimony and 33 witnesses in the trial of Raineri, charged with three counts of using interstate facilities to promote prostitution in August and September, 1978; one count of lying to a federal grand jury, and one count of threatening a witness.

Raineri, 62, who has pleaded innocent, was suspended from the bench after being indicted in June.

Peter A. Linder, a FBI handwriting expert from Washington, D.C., testified Friday that he identified Raineri's handwriting on 25 checks and check stubs of the Ritz Bar Inc. account, the account held by the Show Bar in Hurley.

Linder said a comparison of 480 checks and check stubs written on the bar's account with previous samples of Raineri's handwriting led him to conclude that Raineri's handwriting was on 25 checks and check stubs.

Alfred Lowe, an FBI fingerprint expert from Washington, said Raineri's fingerprints matched two fingerprints found on two Ritz Bar Inc. check stubs.

One check stub recorded a check written to Patricia Forte, a dancer at the Show Bar, and the second stub recorded a check written to Kay Montez, a Show Bar bartender.

The government has attempted to prove to the eight-man, four-woman jury that Raineri was involved in the operation of the Show Bar, a downtown Hurley tavern. Witnesses called by the government have testified that Raineri gave business advice to the bar's owner, consulted directly with the bar's accountant, and was aware of prostitution at the bar.

Show Bar owner Cira Gasbarri testified last week that Raineri would often count the money earned by dancers for prostitution. She said the Show Bar was never raided or cited for being open after hours while Raineri was district attorney.

Mrs. Gasbarri said Raineri loaned her money, helped her with the bar's books and gave her legal advice.

The Show Bar's accountant, Barney Hinch, testified that Mrs. Gasbarri and Raineri came to his office in 1976 and asked him to do the tavern's bookkeeping.

Hinch testified that over the next two years, he discussed Social Security taxes, unemployment compensation and cash flow with Raineri, often going to his office or calling him directly on the telephone.

Patricia Colassacc, a former Show Bar bartender, testified Thursday that Raineri gave Mrs. Gasbarri business advice about the tavern's operation.

"Alex would tell Cira that the business wasn't making any money and that she should work a little more often," Miss Colassaco said.

Tuerkheimer on Thursday read portions of Raineri's testimony before a grand jury in which Raineri was quoted as saying: "Nobody ever told me there was prostitution at the Show Bar. Cira Gasbarri used to complain about dancers using the Show Bar as a headquarters . . . but she never told me there was prostitution."

(Indicate page, name of newspaper, city and state.)

D-2

WIS. STATE JOURNAL
MADISON, WISCONSIN

Date: 12/6/80
Edition: DAILY

Title:

Character:
or
Classification: 194-35-470
Submitting Office:
MILWAUKEE

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____
DEC 1980
FBI—MILWAUKEE

b6
b7C

DOJ

FD-350 (Rev. 10-19-77)

(Mount Clipping in Space Below)

Raineri allegedly had cop 'lean on' witness

By CLAIRE SIMMONS
The Associated Press

A Hurley policeman testified Thursday in the U.S. District Court trial of Judge Alex Raineri that he told his sister to "keep her mouth shut" about an investigation of the judge after Raineri asked him to tell her to "stop telling lies."

"Did you intend to threaten her?" defense attorney Gene Linehan asked Kenneth Colassaco.

"I guess I did," Colassaco replied. "I wanted her to keep her nose out of it. I just wanted her to get the message."

Ranieri is accused of three counts of using interstate facilities to promote prostitution in August and September 1978 at a tavern in Hurley, one count of lying to a federal grand jury and one count of threatening a witness.

Raineri, 62, who was Iron County district attorney for 18 years before becoming a circuit court judge in 1977, has pleaded innocent. He was suspended from the bench after being indicted in June.

Colassaco testified that he had a conversation with Raineri at Raineri's courthouse office in March and was told to tell his sister, Patricia Colassaco of Ironwood, Mich., to "stop telling lies about him and that if she wouldn't listen to me, he'd get someone else to talk to her."

Colassaco told the eight-man, four-woman jury that he also told another sister, Nancy Gross, to "stay out of the Show Bar investigation."

Patricia Colassaco testified that during a March telephone conversation with her brother, "he told me that I should not talk to the FBI."

"I took it as a threat," she said. "He told me that if he couldn't talk to me and keep me quiet, there were others who would," she said.

"I asked him who put him up to calling me and having me threatened," Colassaco said, adding her brother responded: "Nobody."

Colassaco testified she worked as a bartender at the Show Bar from early 1977 to June, 1978, and observed sexual acts between prostitutes and customers in booths at the bar.

Colassaco testified he never noticed any prostitution at the Show Bar during the last two years while he was a Hurley policeman.

His sister testified that Raineri was a regular visitor at the Show Bar and called the tavern "just about every night" to talk to owner Cira Gasbarri.

She testified that one night, in the summer of 1978, Raineri came to the tavern about 3 a.m. after dancers at the bar demanded their weekly paychecks from Gasbarri because they wanted to leave town.

Colassaco said she let Raineri in through a side door and that he and Gasbarri went into the office. She said a short time later, she was called to the office and was given pay envelopes to distribute to the girls.

Colassaco also testified that Raineri gave Gasbarri business advice about the tavern's operation.

"Alex would tell Cira that the business wasn't making any money and that she should work a little more often," Colassaco said.

She said she complained to Raineri and Gasbarri about prostitution at the tavern in 1978.

"Mr. Raineri told me that I had nothing to worry about," Colassaco said, relating she drove a taxi from 1970 until about 1977 in Hurley, which adjoins the Michigan border.

"Mr. Raineri also told me I could get into trouble because I was driving cab and transporting girls across the state line," Colassaco testified. "I said I couldn't because the taxi was a public vehicle for hire."

U.S. Attorney Frank Tuerkheimer read a portion of Raineri's testimony which had been made to the grand jury in which Raineri is quoted as saying: "Nobody ever told me there was prostitution at the Show Bar. Cira Gasbarri used to complain about dancers using the Show Bar as a headquarters. . . But she never told me there was prostitution."

(Indicate page, name of newspaper, city and state.)

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CAPITAL TIMES
MADISON, WISCONSIN

Date: 12/5/80
Edition: DAILY

Title:

Character:
or
Classification: 194-35-4771
Submitting Office:
MILWAUKEE

SEARCHED — INDEXED
SERIALIZED — FILED
DEC - 1980
FBI—MILWAUKEE

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